

# ENHANCED REQUEST FOR MEDIATION

## When to Use This Document

- After 60-90 days of failed negotiations
- Before filing costly litigation
- When relationship preservation matters
- For complex multi-issue disputes
- When both parties could benefit from compromise

## Understanding Mediation

- **Non-binding:** Parties control outcome
  - **Confidential:** Discussions protected
  - **Neutral facilitator:** Mediator doesn't decide
  - **Cost-effective:** Much cheaper than trial
  - **Success rate:** 70-80% reach agreement
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# COMPREHENSIVE REQUEST FOR MEDIATION

[Date]

## VIA CERTIFIED MAIL AND EMAIL

[Insurance Carrier Name]

Attn: [Adjuster Name]

Attn: Claims Manager

Attn: Legal Department

[Address]

[City, State ZIP]

## Re: FORMAL REQUEST FOR MEDIATION - WIN-WIN OPPORTUNITY

- Claim #: [Claim #]
- Policy #: [Policy #]
- Date of Loss: [Date]
- Amount in Dispute: \$[Amount]

- Proposed Mediation Date: [Date Range]

Dear [Adjuster Name]:

After [#] months of good faith negotiations, we remain at impasse on critical claim issues. Rather than proceed to expensive and time-consuming litigation, I propose mediation as a cost-effective path to resolution that benefits both parties.

## I. EXECUTIVE SUMMARY OF DISPUTE

### Current Positions

Issue	Your Position	My Position	Gap to Bridge
Coverage scope	Partial coverage	Full coverage	\$40,000
Repair vs replace	Repair only	Replacement needed	\$25,000
ALE duration	3 months	8 months	\$15,000
Code upgrades	Not covered	Required by law	\$12,000
<b>Total Dispute:</b>	<b>\$45,000 offer</b>	<b>\$137,000 claim</b>	<b>\$92,000</b>

### Why Mediation Now?

- Positions are clear but entrenched
- Neither party wants litigation expense
- Time-sensitive repair needs
- Relationship worth preserving
- Creative solutions possible

## II. LEGAL BASIS FOR MEDIATION

### A. Policy Provisions

[If policy contains mediation clause, quote it]

*"If we and you disagree on the amount of loss, either may request mediation. Mediation is non-binding unless both parties agree to be bound."*

### B. Statutory Framework

#### State-Specific Mediation Laws:

**California:** Insurance Code §10089.75

- Mediation available for claim disputes
- Department of Insurance mediation program
- Reduced cost for consumers

**Florida:** §627.7015

- Mandatory mediation for property claims
- State-sponsored program available
- Must mediate before litigation

**Texas:** Insurance Code Chapter 542A

- Pre-suit mediation encouraged
- Statutory benefits for participation
- Attorney fee implications

### **C. Court-Encouraged Resolution**

- Most courts require mediation anyway
- Early mediation saves legal costs
- Judges favor parties attempting resolution
- May impact attorney fee awards

## **III. SPECIFIC ISSUES FOR MEDIATION**

### **A. Coverage Interpretation Disputes**

#### **Issue 1: Water Damage Classification**

- Your view: Gradual leak, excluded
- My view: Sudden burst, covered
- Mediator can: Help interpret policy language
- Potential compromise: Partial coverage based on evidence

#### **Issue 2: Mold Coverage**

- Your view: Separate exclusion applies
- My view: Resulted from covered water damage
- Mediator can: Explore ensuing loss doctrine
- Potential compromise: Cover remediation, not testing

## B. Scope of Repair Disagreements

Component	Your Scope	My Scope	Mediation Opportunity
Drywall	Patch and paint	Full replacement	Room-by-room analysis
Flooring	Sand and refinish	Replace all	Match assessment
HVAC	Clean only	Replace unit	Age/efficiency review
Roof	Repair section	Full replacement	Code requirement review

## C. Valuation Differences

### Pricing Disputes:

- Labor rates: \$32 vs \$48/hour
- Materials: Contractor vs insurance pricing
- Overhead & profit: 0% vs 20%
- Market conditions: Normal vs catastrophe

### Mediation Benefits:

- Reality test both positions
- Market evidence review
- Split difference possibilities
- Payment timing flexibility

## D. Claims Handling Issues

### Process Complaints:

- Investigation delays
- Communication failures
- Documentation disputes
- Expert disagreements

### Mediation Can Address:

- Acknowledge frustrations
- Improve future process
- Resolve without fault finding
- Focus on solutions

## **IV. PROPOSED MEDIATION FRAMEWORK**

### **A. Mediator Selection**

#### **Option 1: Insurance Department Program**

- Cost: \$200-500 total
- Mediators: Trained in insurance
- Timeline: 30-45 days
- Success rate: 75%

#### **Option 2: Private Mediator** Suggested qualified mediators:

1. **[Name], Esq.**

- Former insurance defense attorney
- 500+ insurance mediations
- Rate: \$400/hour (split)
- Available: [Dates]

2. **[Name], CPCU**

- Former claims executive
- Property loss expertise
- Rate: \$350/hour (split)
- Available: [Dates]

3. **Hon. [Name] (Ret.)**

- Former judge
- Insurance law experience
- Rate: \$500/hour (split)
- Available: [Dates]

#### **Option 3: AAA Insurance Mediation**

- Panel of qualified mediators
- Established procedures
- Rate: \$2,000-4,000 total
- Timeline: 45-60 days

## B. Proposed Process

### Pre-Mediation Phase (Days 1-14):

- Select mediator jointly
- Schedule session
- Exchange position statements
- Compile key documents

### Position Statements Should Include:

- Brief factual summary (2-3 pages)
- Legal position (1-2 pages)
- Settlement position (confidential)
- Key documents attached

### Mediation Day Structure:

Time	Activity	Purpose
9:00 AM	Joint opening session	Set tone, hear positions
9:30 AM	Carrier presentation	Explain coverage position
10:00 AM	My presentation	Explain damage/needs
10:30 AM	Caucus sessions begin	Private discussions
12:00 PM	Working lunch	Continue negotiations
1:00 PM	Joint problem-solving	If progress made
3:00 PM	Final push	Last effort at agreement
4:00 PM	Closure or impasse	Document outcome

## C. Cost Allocation Proposal

Expense	Estimated Cost	Your Share	My Share
Mediator fee (8 hours)	\$3,200	\$1,600	\$1,600
Room rental	\$300	\$150	\$150
Court reporter (if desired)	\$800	\$400	\$400
<b>Total per party:</b>		<b>\$2,150</b>	<b>\$2,150</b>

Compare to litigation costs:

- Attorney fees: \$50,000-150,000
- Expert witnesses: \$10,000-25,000
- Time to trial: 18-36 months
- Uncertainty of outcome

## **V. PARTICIPANTS AND AUTHORITY**

### **Essential Participants**

#### **From Policyholder Side:**

- [My name] - Insured
- [Attorney name] - If represented
- [Public adjuster] - If involved
- [Expert] - Available by phone if needed

#### **From Carrier Side Requested:**

- Adjuster familiar with claim
- **Person with full settlement authority**
- Coverage counsel if desired
- Expert if relevant

### **Settlement Authority Critical**

#### **Mediation fails without authority present:**

- Need person who can say "yes"
- Not someone who must "check with supervisor"
- Authority for reasonable settlement range
- Flexibility for creative solutions

## **VI. CONFIDENTIALITY AND PRIVILEGE**

### **Mediation Privilege Protection**

- All discussions confidential
- Cannot be used in court
- Mediator cannot testify
- Documents prepared for mediation protected

- Encourages open discussion

## **Exceptions**

- Final settlement agreement
- Threats of violence
- Statutory reporting requirements

## **VII. POTENTIAL CREATIVE SOLUTIONS**

### **Beyond Just Money**

Mediation allows creative solutions courts cannot order:

#### **1. Structured Payments**

- Immediate payment for emergency repairs
- Deferred payment for other items
- Payment tied to repair milestones

#### **2. Repair Supervision**

- Carrier involvement in contractor selection
- Agreed scope with flexibility
- Quality assurance process

#### **3. Future Relationship**

- Premium considerations
- Claim handling improvements
- Direct contact established

#### **4. Non-Monetary Terms**

- Apology/acknowledgment
- Process improvements
- Confidentiality if desired
- No admission of wrongdoing

## **VIII. GOOD FAITH COMMITMENT**

### **I Commit To:**

- Enter with open mind



- Consider all reasonable proposals
- Provide necessary documentation
- Maintain confidentiality
- Make good faith efforts
- Have patience with process

### **Expected From You:**

- Send representative with authority
- Consider creative solutions
- Share relevant information
- Participate meaningfully
- Make realistic proposals
- Work toward resolution

## **IX. ALTERNATIVES IF MEDIATION REFUSED**

### **If You Decline Mediation:**

#### **1. Immediate Litigation Filing**

- Complaint ready for filing
- Seeking all available damages
- Request jury trial
- Pursue bad faith claims

#### **2. Regulatory Actions**

- DOI complaint emphasizing refusal to mediate
- Request market conduct exam
- Pattern practice investigation
- Public documentation

#### **3. Public Relations Impact**

- Document refusal to mediate
- Social media campaign
- Consumer advocacy contacts

- Media interest possible

#### 4. Cost Consequences

- Full attorney fees sought
- Expert witness costs
- Litigation expenses
- Time and disruption

#### These Alternatives Benefit Neither Party

### X. TIME-SENSITIVE CONSIDERATIONS

#### Why Mediate Now?

Factor	Impact of Delay	Benefit of Now
Property damage	Worsening daily	Stop deterioration
Repair costs	Increasing 5-10%/year	Lock current prices
Living situation	Ongoing displacement	Return home sooner
Emotional toll	Accumulating stress	Achieve closure
Legal costs	Mounting quickly	Minimal expense
Evidence	Memories fading	Fresh recollections

### XI. SUCCESS STATISTICS

#### Insurance Mediation Outcomes

- **Settlement rate:** 70-80% reach agreement
- **Satisfaction:** 85% satisfied with process
- **Time to resolution:** 60-90 days average
- **Cost savings:** 80-90% less than litigation
- **Relationship preservation:** 60% maintain coverage

#### Why Mediation Works

- Reality testing of positions
- Face-to-face humanization
- Creative problem-solving
- Controlled environment

- Professional facilitation
- Win-win possibilities

## XII. PROPOSED TIMELINE

Date	Action
[Date]	This mediation request sent
[Date + 7]	Your response expected
[Date + 14]	Mediator selected
[Date + 21]	Position statements exchanged
[Date + 30]	Mediation session
[Date + 35]	Settlement finalized
[Date + 45]	Payment received

## XIII. RESPONSE REQUESTED

**Please Respond Within 15 Days With:**

### Option 1: Agreement to Mediate

- Acceptance of mediation
- Mediator preferences
- Available dates (next 30-45 days)
- Authority confirmation
- Process agreements

### Option 2: Counter-Proposal

- Alternative dispute resolution
- Different mediator suggestions
- Modified process
- Timing concerns

### Option 3: Declination

- Specific reasons for refusal
- Alternative proposal
- Recognition of consequences

- Final settlement offer

## CONCLUSION

Mediation offers our best opportunity for efficient, cost-effective resolution that preserves relationships and allows creative solutions. The alternative—protracted litigation—benefits neither party.

I sincerely hope you will accept this invitation to mediate. Together we can craft a solution that addresses both parties' core interests while avoiding the expense, time, and uncertainty of litigation.

This opportunity for collaborative resolution will not remain open indefinitely. Please respond within 15 days.

Respectfully submitted,

[Your Name]

[Address]

[Phone] | [Email]

### Enclosures:

- Summary of disputed issues
- Documentation index
- Proposed mediator CVs
- Mediation success statistics
- Draft mediation agreement

### cc:

- [Attorney, if retained]
- [Public Adjuster, if applicable]
- [State Department of Insurance]
- File

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## Post-Request Strategy

### If Accepted:

- Begin document preparation
- Prepare persuasive opening

- Develop BATNA (Best Alternative to Negotiated Agreement)
- Set realistic goals
- Plan negotiation strategy

**If Rejected:**

- Document refusal
- Proceed with litigation
- Include refusal in bad faith claim
- Notify Department of Insurance
- Consider public pressure

**Red Flags in Response:**

- Conditions that undermine process
- Refusal to bring authority
- Unreasonable mediator demands
- Delay tactics
- Bad faith indicators

*This enhanced mediation request provides comprehensive framework for proposing and conducting successful insurance claim mediation.*