



LEHR MIDDLEBROOKS
VREELAND & THOMPSON, P.C.

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April 18, 2023

LMVT Mediation

Mediation is a process. Most experienced lawyers get this; many litigants (even experienced ones) do not. The process can be slow and frustrating. There's a lot of down time to ponder what could be going on in the other room. What could take so long? If the parties were economically rational and dispassionate, cases would settle without mediation. But often they're not. It takes the time sequestered in mediation to focus on the real issues, to vent, to build trust, to hear the assessment of a neutral and ultimately (hopefully) to adjust expectations.

Having litigated these cases for more than 30 years, I was first asked to mediate almost 15 years ago by two counsel for whom I have great respect. The case was a volatile sexual harassment case with highly prominent players, not all of whom were willing to even come to the table. It took a late night and a week of additional caucuses and a little door slamming, but we got it done. I've been mediating cases regularly since.

These days, I usually have a pretty good sense where they will settle (or at least where they should) within the first hour or so. But many mediations take time – hours, even weeks – to get to that number. The plaintiff needs to be heard, sometimes more than once. A first-time defendant may need to vent about the injustice of the system. All parties need to appreciate the vulnerabilities (every case has them) in the case they have been invested in for years.

An advantage of spending the time in mediation is that everything is on the table, including possibilities the parties may not recognize at first. Our approach is to evaluate each party's relative priorities and chart a course to a realistic resolution that satisfies those priorities to the extent possible. In one mediation, we closed the deal with a set of golf clubs for the plaintiff's attorney from the pro shop. Everyone has their price.

If you're considering mediation, please feel free to contact our mediation team: [myself](#), [David Middlebrooks](#), and [J.W. Furman](#).