# Mediation

## Attorneys

Judge Peter Smola

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## Related Services

Mediation

Family Law Mediation

Mediation of Civil Claims and Business Disputes

Probate and Estate Law Mediation

## Overview

Most disputes do not need a courtroom to reach a resolution. Many of the matters that arrive at a judge's desk could have been resolved weeks or months earlier through structured negotiation, at a fraction of the cost and with far less disruption to the parties involved. Mediation offers that path.

Cohen Cleary provides mediation services across family law, probate, and business disputes for clients throughout Massachusetts and Rhode Island. The firm serves in two distinct capacities: as a neutral mediator facilitating agreement between parties, and as an advocate representing a client's interests within the mediation process. That distinction matters. A party entering mediation without understanding the difference between these roles risks either surrendering strategic advantage or misunderstanding the mediator's function entirely. Clients who are court-ordered to mediate and those choosing the process proactively both benefit from the same foundation: preparation, clear expectations, and qualified guidance. Mediation does not guarantee agreement, but with the right preparation, it resolves the majority of disputes more efficiently than litigation.

## Dispute Resolution Across Family, Business, and Estate Matters

Cohen Cleary's mediation practice covers three core areas, each requiring distinct subject-matter fluency and procedural awareness:

### Family Law Mediation

Divorce mediation, child custody disputes, child support, alimony, and parenting plan negotiations. Family law mediation often preserves co-parenting relationships that adversarial litigation damages.

### Mediation of Civil Claims and Business Disputes

Contract disputes, partnership conflicts, commercial disagreements, and civil claims where the cost and timeline of litigation outweigh the value in dispute. Business mediation offers an alternative dispute resolution path that keeps sensitive commercial matters out of the public record.

### Probate and Estate Law Mediation

Will contests, trustee disputes, beneficiary disagreements, and fiduciary conflicts. Estate mediation carries unique emotional complexity because the relationships at stake are irreplaceable. More information about resolving estate and probate disputes through mediation is available on our Probate, Trust & Estate Administration practice area page.

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## How Cohen Cleary Approaches Mediation

The firm's mediation practice is built on a principle we communicate to every client at intake: mediation is not informal negotiation. It is a structured process with defined roles, procedural rules, and strategic considerations that mirror litigation preparation in important ways.

When acting as a neutral mediator, Cohen Cleary attorneys manage the session framework, facilitate productive dialogue, and help parties identify the terms of a workable agreement. The mediator does not decide the outcome, impose terms, or advocate for either side. This neutrality is what makes the process effective, but it also means that parties benefit from having their own counsel present or consulting with an attorney before and after sessions. Mediation discussions are confidential and generally cannot be introduced as evidence in later proceedings, which allows parties to negotiate candidly without concern that their positions will be used against them.

When representing a client in mediation, the firm's role shifts entirely. We prepare clients the same way we prepare for trial: with a thorough understanding of the facts, the applicable law, and the client's priorities. We develop a clear assessment of what a court would likely order if mediation fails, because that assessment defines the negotiating floor. Clients who enter mediation without that analysis often agree to terms they would not have accepted with better information.

## Why Clients Choose Cohen Cleary's Mediation Attorneys

At Cohen Cleary, our practice teams combine deep subject-matter experience with disciplined execution and responsive client service. We do not take a one-size-fits-all approach. Every matter is handled with careful preparation, clear communication, and a strategy tailored to the client's goals and the realities of the forum.

Clients choose Cohen Cleary because we deliver:

### Practice-Focused Legal Experience

Our attorneys work in defined practice areas, allowing us to develop practical insight into the legal, procedural, and regulatory nuances that matter most in each case. This focus allows us to anticipate issues, avoid unnecessary delays, and position matters for efficient resolution.

### Clear Guidance and Proactive Communication

We prioritize clarity at every stage. Clients receive straightforward explanations of their options, timely updates on developments, and practical advice grounded in real-world outcomes.

### Strategic Advocacy with Trial Readiness

Whether a matter calls for negotiation, mediation, or litigation, our attorneys prepare every case with discipline and foresight. We pursue efficient resolution when possible and are fully prepared to advocate aggressively when necessary to protect our clients' interests.

### Regional Knowledge and Local Presence

With offices throughout Massachusetts and experience across New England courts and agencies, we bring local insight and regional reach to every matter.

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### Client-Centered Service

We treat every matter with urgency and respect. Our clients rely on us for responsive service, sound judgment, and steady counsel through complex legal challenges.

In our mediation work, this approach helps clients navigate disputes with clarity, efficiency, and confidence.

## Why Mediation Preparation Defines the Outcome

Mediation is not a compromise machine. Parties who enter the process expecting to split the difference often achieve worse outcomes than those who arrive with a clear understanding of their priorities and their alternatives. We tell our clients that the single most important factor in mediation success is preparation, not flexibility. Knowing what a court would likely order if the case proceeds to trial gives you a baseline, and without that baseline, you are negotiating blind while the other side may not be.

## Serving Clients Across Massachusetts and Rhode Island

Cohen Cleary provides mediation services from offices in Taunton and Plymouth, serving clients throughout southeastern Massachusetts, Greater Boston, and Rhode Island, with the capacity to serve mediation clients across New England. Our attorneys are familiar with the procedural expectations and local rules of the Probate and Family Courts in Bristol, Plymouth, and Norfolk Counties, as well as the Superior Court divisions where civil and commercial mediations frequently arise. That familiarity with local court culture informs the preparation we bring to every mediation session, whether conducted at our offices, at a neutral site, or remotely.

## Schedule a Consultation With a Massachusetts Mediation Attorney

If you are facing a dispute that could benefit from structured negotiation, or if you have been ordered to mediate and need representation, contact Cohen Cleary to discuss your options. Our attorneys will assess your situation and recommend the approach most likely to achieve an efficient, favorable resolution.

## Frequently Asked Questions About Mediation

### What is the difference between a mediator and a mediation attorney?

A mediator is a neutral third party who facilitates discussion and helps both sides reach an agreement. The mediator does not represent either party and does not decide the outcome. A mediation attorney, by contrast, represents one party's interests during the mediation process, providing legal advice, preparing a negotiation strategy, and reviewing any proposed agreement before it becomes binding. Cohen Cleary serves in both roles depending on the client's needs.

### Is a mediated agreement legally binding?

Not automatically. A mediated agreement becomes binding once both parties sign it and, in many cases, once a court incorporates it into an order or judgment. Until that point, mediation

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discussions are confidential and generally cannot be used as evidence in later proceedings. This confidentiality is one of the key advantages of the process, particularly in family and business disputes where preserving relationships and privacy matters.

### How much does mediation cost compared to litigation?

Mediation typically costs significantly less than taking a dispute through litigation. Court proceedings involve filing fees, discovery costs, depositions, expert witnesses, and extended attorney time. A mediation can often resolve a matter in one to three sessions. The specific cost depends on the complexity of the dispute and the number of issues involved, but for most clients, mediation represents a substantial savings in both time and expense.

### Can I be required to participate in mediation?

Yes. Massachusetts courts frequently order mediation in family law cases, civil disputes, and probate matters before allowing the case to proceed to trial. Court-ordered mediation does not mean you are required to reach an agreement. It means you are required to participate in the process in good faith. If mediation does not produce a resolution, your case continues through the court system.

### What types of disputes are best suited for mediation?

Mediation works well in disputes where the parties have an ongoing relationship they want to preserve, where confidentiality is important, or where the cost and timeline of litigation would be disproportionate to the issues at stake. Family law matters, business partnership disputes, estate conflicts, and contract disagreements are common candidates. Mediation is less effective when there is a significant power imbalance between the parties or when one party is unwilling to negotiate in good faith.

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