

Carlos J. Burruezo, Esq.:

A litigation matter is always an argument about the past. It's an exercise in looking at the rear view mirror, and sometimes it's really hard to go in and step into the future without putting the past in its proper place.

Carlos J. Burruezo, Esq.:

When litigants go into a mediation, the whole idea is to understand the risks of moving forward should you not settle the case. The primary purpose of mediation is compromise and compromise is essentially going to a zone of discomfort. Each side comes to mediation typically with an expectation to arrive at a certain place. And in most mediations, the plaintiff will take less money than what they want and the employer, the defendant, will pay more than they otherwise wanted to. And that happens probably in the vast majority of all mediations. No one comes to a mediation getting what they want. And ultimately everyone at the conclusion of the mediation will have gone through that compromise process, going to that zone of discomfort, where they didn't want to go to, but they need to to bring finality to the outcome.

Carlos J. Burruezo, Esq.:

When I go to a mediation, I'm dealing with two different mindsets. For the plaintiff, the person suing their former employer, they're mad about having lost their job or whatever consequence they've suffered. So for them, it's emotional. It's about their job. It's about their profession that's been cut short by some decision the employer made concerning them. The employer room, the mindset's very different. It's a business judgment. I stand by my decision, but I know it's going to cost me a lot to defend this case. So what is the lesser of two evils? Do I pay my lawyer a bunch of money to defend my case with an uncertain outcome? Or do I pay something in resolution of the case, even though I feel like my decision was justified?

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So you sort of need a mediator who has an ability to be a quick study, to understand the facts as presented, to understand the law, that's an issue, and to be able to assist the parties in evaluating the facts vis-a-vis the law and also what the settlement options might be and what the goals are of the parties in relation to possible outcomes in the case. Given my years of litigation experience, I've tried every imaginable employment case you can imagine before federal and state courts and administrative bodies. And so I know how these cases progress from inception to the end. So I use that as a way to talk to parties, to discuss with them potential outcomes, the pitfalls of moving forward, the strengths of the mediation process. So it gives me an insight into assisting parties in resolving their cases.

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In mediation, the parties are participants in fashioning the outcome, and they know by their participation in the outcome, how the movie will end, because they will have had a hand in scripting the final chapter. Whereas in litigation, the final chapter is written by someone you can't control, the judge or jury.