

# Mediation The Advocate's Perspective



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# Mediation The Advocate's Perspective



Adr. What is it?

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Halsey order.

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## Costs sanctions

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I love mediation. But there are advantages and disadvantages.

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Disadvantages of Mediation. Cost of mediator. Take longer than a JSM. Plenary Sessions. Position Statements with common bundles. Schedules like trial Schedules?

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Particular Advantages. Intractable  
disputes. Intractable opponents.  
Multihanded claims/Defendants.

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Academic research required on advantages/disadvantages of mediation over JSM. But difficult because of privilege.



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Quality of Mediator very important.  
How impartial is a mediator on a  
Defendant's approved list?

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Advocate's first duty is to his or her client, not to the Mediator.. Be very open to suggestion. Be very flexible. But know the value of your case. A negligent settlement at a mediation is still negligent.

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And you can't call the mediator to give evidence as to the reasonableness of the settlement as the process is wholly privileged.