



# Residential Property & Earthquake Claims Mediation Program

## What Is Mediation?

It is an informal, inexpensive, and non-adversarial way to resolve your dispute with your insurance company. Mediation is a process by which you and the insurance company submit your dispute to a neutral third party (the mediator) that works with both of you to reach a settlement of the dispute. The mediator has no power to impose an agreement on you; only you can decide to settle your case. One of the purposes of mediation is to give you the opportunity to tell your insurance company your perspective regarding the dispute in a joint session. In private sessions held with each party, the mediator separately tries to promote a candid discussion of the issues and priorities of each party.

The mediation is non-binding, which means that neither you nor the insurance carrier is legally obligated to accept an offer made by the other party. Even if you do agree to settle your case in mediation, you have three business days to change your mind. If you change your mind within this three-day period, you must inform the mediator of your decision. Please note: If you are represented by an attorney at the mediation conference, and the attorney signs settlement-related documents, the settlement is immediately binding.

If the mediation is unsuccessful, you can take whatever options were available to you had you not gone to mediation. The mediation conference is considered a settlement negotiation and statements made during the conference cannot be used against you in any later proceedings. Everyone is required to sign a Confidentiality Agreement at the beginning of the mediation conference.

## Who Is Eligible for Mediation?

Anyone having a dispute involving residential fire or earthquake damage claims for which the Governor has declared a state of emergency. The amount claimed by the insured must exceed \$7,500 and the amount in dispute must exceed \$2,000. It does not apply to commercial or liability policies.

## Residential Property & Earthquake Claims Issues Eligible for Mediation

- Scope of loss;
- Mandated building code upgrades;
- Dwelling vs. other structures;
- Preexisting damage vs. proximate cause;
- Additional Living Expense where the policy limit has not been exhausted or expired;
- Asbestos abatement;
- Proof of loss and other personal property issues;
- Disputes where both parties to the policy wish to discuss possible payments beyond policy limits. However, in these cases participation by the insurance company is voluntary (residential fire claims only);
- Earthquake vs. aftershocks (earthquake claims only);
- Hidden damages (earthquake claims only)

## Residential Property Issues Not Eligible for Mediation

- Coverage issues - the absence of residential property coverage and other underwriting issues, including, but not limited to, failure to insure, cancellation, nonrenewal, and rating issues;
- Legal interpretations of policy provisions and terms;
- The statute of limitations and contractual limitations on filing periods;
- Allegations of bad faith and other demands for extra contractual payments;
- Claims or disputes involved in a civil action.

## Earthquake Claims Issues Not Eligible for Mediation

- Coverage issues - the absence of earthquake coverage and other underwriting issues, including, but not limited to, underinsurance, failure to insure, cancellation, nonrenewal, and rating issues;

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- Legal interpretations of policy provisions and terms;
- The statute of limitations and contractual limitations on filing periods;
- Claims in excess of policy limits;
- Allegations of bad faith and other demands for extra contractual payments, including underinsurance;
- Claims or disputes involved in a civil action.

### **How Does the Mediation Process Work?**

All mediations differ, depending on the parties involved and the issues in dispute, so your mediation may vary from the general description provided below.

- The First Step – Notification
- The Second Step – The Request to Mediate
- The Third Step – Selection of the Mediator
- The Fourth Step – Pre-Mediation Telephone Conference
- The Fifth Step - Preparing for the Conference
- The Sixth Step – The Mediation Conference and the Settlement

Upon completion of the mediation process, a Mediation Program survey will be mailed to you. The CDI requests that it be completed and returned at your earliest convenience to assist with the evaluation of the Mediation Program.

If you have any questions, feel free to contact our Consumer Hotline at 1-800-927-4357 or visit our website at [www.insurance.ca.gov](http://www.insurance.ca.gov).

### **Filing a Complaint (Request for Assistance)**

CDI is committed to protecting your rights. Many questions can be answered over the phone. If we are unable to resolve the issue over the phone, you have the option of filing a Request for Assistance against the insurer or the agent/broker by mail or online on our website. The system will allow you to attach copies of all necessary documents, such as policies, canceled checks and correspondence. Some examples of the issues the Department may be able to help with include:

- Improper Denial of Claim
- Cancellation or non-renewal of a policy
- Delay in settlement
- Alleged misappropriation of premiums paid
- Alleged misrepresentation by an Agent/Broker or solicitor
- Unfair underwriting practices
- Dishonest or deceptive insurance sales tactics

### **Contact Us**

Consumer Assistance Hotline:

1-800-927-4357

TTY 1-800-482-4833

Visit us on the web at:

[www.insurance.ca.gov](http://www.insurance.ca.gov)

To order additional materials contact

Community Relations & Outreach at:

[crob@insurance.ca.gov](mailto:crob@insurance.ca.gov)



Led by Insurance Commissioner Ricardo Lara, the California Department of Insurance is the consumer protection agency for the nation's largest insurance marketplace and your best resource for honest and impartial answers to insurance questions. Knowledgeable insurance professionals are available through our consumer hotline. Call 1-800-927-HELP (4357) or visit [www.insurance.ca.gov](http://www.insurance.ca.gov) to view all of our consumer information guides and insurance resources. These tools are available to consumers free of charge.