

[A Mediator's Recommendation](#)



Recently, I conducted a mediation in a sexual assault and personal injury case. When the day began, the parties were at vastly different places. After nearly seven hours of discussion, they were a lot closer together, but still very far apart.

At this point, the defendant asked if I would make a non-binding recommendation for a settlement. I said yes, but **only** if both sides wanted me to do it.

To my knowledge, mediators are often reluctant to make a settlement recommendation. Many simply refuse to do it. Good reasons could be found for that position. As I like to tell people in the beginning of any mediation, I am not a judge. It is not my role to decide the case, or to say who is liable and who is not, or to determine the damages. I need to remain objective, and not to take sides.

Nevertheless, I see nothing wrong with making a recommendation if the parties agree that they all want me to do it. My practice is to obtain that agreement privately with each side. That is what I did here, and it worked. Each party's counsel told me privately that they wanted me to make a recommendation. I did so. Less than a day later, both sides told me that they accepted my recommendation, and the case settled for that number

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