

ANN T. MARSHALL MEDIATION

2800 1st Ave., #433A | Seattle, WA 98121
Direct Mobile/Text: 206.619.8043 | Direct Email: Ann@anntmarshall.com
Case Manager: Admin@anntmarshall.com | anntmarshall.com
online calendar: <https://anntmarshall.com/schedule-a-case/>

TWO PROPOSALS AT ONCE

Quick Reference — Insulating Parties From Reactive Bargaining

Each side prepares two proposals grounded in their own risk analysis—not in reaction to the other side. Both are conveyed to the other side at the same time.

How It Works

1. **Build two proposals with the mediator.** The proposals are based upon the party's own risk analysis, not a reaction to the other side's proposal. The second moves further from the first but is not "final." Each party also describes their position, interests and analysis that, from their perspective, justifies their proposal.
2. **The mediator reviews all sides' proposals** before any are exchanged.
3. **Both proposals are conveyed** to each party in private caucus.
4. **After exchanges occur**, logistically, Plaintiff is positioned to respond to the Defendant's second proposal.
5. **Risk of moving without a sufficient move in return.** If a side felt the other's movement was minimal, the party can communicate that in the next response.

Why This Helps

A significant source of stalled movement at the start of negotiations is reacting to (and/or feeling insulted by) the other side's proposal, instead of a party evaluating their own risk. Building both proposals before seeing what the other side does keeps each side anchored to their own analysis, not impacted by the other side's opening proposal. Additionally, receiving a proposal which is then followed by another move is highly beneficial to the negotiating process. It is also a way to outline what is close to a party's best-case scenario but is then followed by compromise and recognition of risk.

Example

Plaintiff: first proposal \$300,000, second proposal \$225,000.

Defendant: first proposal \$120,000, second proposal \$150,000.

The mediator reviews all proposals and meets with Defendant to provide Plaintiff's proposals. The mediator then meets with Plaintiff to provide Defendant's proposals. The Plaintiff is then in position to respond to the Defendant's last offer in the amount of \$150,000.

Proposals go to the mediator first, then to the other side together.