

## **"Mediation: Not If, But When and How," FDCC Quarterly, April 2010**

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Statistically, 95% of all cases settle before trial. Civil litigation has become an increasingly expensive and exhaustive prospect for all defendants with the rising demands of pre-trial discovery, onerous electronic discovery, and e-document production. Strike suits by individual plaintiffs and class actions by a small number of class representatives can impose enormous defense costs on a company and its insurers, while plaintiffs often have little risk or personal expense themselves and very little to produce on discovery. Waiting until just before trial to settle such cases exposes defendants and their insurance carriers to enormous defense costs, much of which will be incurred after the strengths and weaknesses of all parties' respective positions can be reliably evaluated.