



## Arbitration & Mediation

Arbitration and mediation are the two most common types of Alternative Dispute Resolution. When time, money or privacy are a concern, arbitration and mediation offer clients other options.

Not all legal action is resolved in a courtroom setting. Arbitration provides an alternative to trial by having one or three persons hear each party's position and make a decision which is binding on the parties. The intent of this process is that it be more expeditious and less expensive than trial.

There are many cases, dependent on certain factors, where arbitration and mediation may minimize exposure and maximize the potential for future business.

Mediation affords privacy not available in litigation. There is no public filing and the mediation process is not open to the public. As a result, adverse publicity may be avoided. The parties agree at the beginning of their process that whatever is said in their mediation sessions will be kept confidential and will not be used in any litigation that might follow.

Unlike litigation, in which a judge or jury determines the outcome, the mediator has no authority to impose a settlement. Whether the parties settle is a decision that rests exclusively with them. This process also offers flexibility for parties to fashion a settlement that a judge or jury is not likely to be able to. For instance, taking into account the potential for future continued business, the consideration of tax ramifications, or other creative win-win solutions.

Since statistics show that 9 out of 10 cases to settle at some point, the question becomes when, not if, a case will settle. If settlement is reached early in the process as opposed to on the eve of a trial, valuable resources are saved. Parties who are interested in cooperative problem solving are rewarded by saving time, money, maintaining privacy and possibly preserving a relationship beneficial to them.

A settlement entered through mediation provides finality. Although most parties embroiled in litigation focus on trial as the end of their dispute, the reality is that trial may be followed by years of (lengthy and expensive) appeals or actions necessary to collect a judgment.

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### ATTORNEYS

#### Shareholder

Dirk H. Beckwith  
Michael R. Blum  
Frederick D. Dilley  
Julie I. Fershtman  
Deanna Swisher

#### Senior Attorney

Benjamin R. Judd  
Kelly Reed Lucas  
Paula K. Manis

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### RELATED PRACTICES

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Contracts may provide for mediation as a required method of dispute resolution before arbitration or litigation.

Foster Swift has been named a Tier 1 firm in **Arbitration** and **Mediation** in Lansing and Grand Rapids by *U.S. News – Best Lawyers®* "Best Law Firms" in 2014, 2016, 2017, 2018, 2019, 2020 and in Grand Rapids in 2021, 2023-2024.

In addition to representing clients in arbitration and mediation proceedings, several of our attorneys' credentials have been reviewed by the American Arbitration Association and are included on the list of neutrals for commercial construction and employment arbitration matters. Additionally, Fred Dilley is a certified mediator.

Dilley was recently interviewed by Michigan Lawyers Weekly about the rising trend of using virtual mediation during the COVID-19 pandemic. The article covers aspects of the available technology along with benefits and best practices. See full story [here](#).

## **PUBLICATIONS & ALERTS**

Q&A: New DOJ Rule Requires State & Local Government Websites, Apps to be ADA Accessible, *Foster Swift Municipal Law News E-blast*, April 22, 2024

Expungement Process in Michigan, *Foster Swift Business & Tax Law News*, October 31, 2022

A Motion for Directed Verdict, *Michigan Bar Journal*, July 2013

How Not to Sell a Horse, *The Equine Chronicle*, June 27, 2013

## **NEWS**

Preparing Women Business Leaders for 2024 Legal Challenges, *Meltwater Newswire*, February 20, 2024

Are You Prepared? New Video Series Exposes Potentially Devastating Legal Challenges for Young Adults & Their Families, *EIN Newswire*, November 21, 2023

Grand Rapids Attorneys Listed as 2023 Top Lawyers, *Grand Rapids Magazine*, November 8, 2023

Foster Swift Listed in "Best Law Firms" 2024, *Best Lawyers in America*, November 2, 2023

Foster Swift Attorneys Named 2024 Best Lawyers in America, *Best Lawyers in America*, August 17, 2023

Grand Rapids Family Law Attorney Joins Foster Swift, *Grand Rapids Legal News*, November 7, 2022

Foster Swift Listed in "Best Law Firms" 2023, *Best Lawyers "Best Law Firms"*, November 3, 2022

Actions During College Welcome Week Could Lead to Long-Term Legal Problems, *Yahoo!*, August 22, 2022

Foster Swift Attorneys Named 2023 Best Lawyers in America®, *Best Lawyers in America*, August 18, 2022

Litigation Series Focuses on the Ins & Outs of Lawsuits, August 10, 2022

Forbush "Comes Home" to Foster Swift, *Ingham County Legal News*, December 15, 2021

Grand Rapids Attorneys Listed as 2022 Top Lawyers, November 17, 2021

Foster Swift Listed in "Best Law Firms" 2022, *Best Lawyers in America*, November 5, 2021



Foster Swift Attorneys Named to 2022 Best Lawyers in America®, August 19, 2021

Lansing Attorney Named ICBF President, July 28, 2021

Nine Attorneys Listed as Top Lawyers 2020, *Grand Rapids Magazine*, December 11, 2020

Foster Swift Listed in "Best Law Firms" 2021, *Best Lawyers*, November 5, 2020

Foster Swift Attorneys Named Best Lawyers® 2021 "Lawyer of the Year", August 20, 2020

Foster Swift Attorneys Named to 2021 Best Lawyers in America®, August 20, 2020

Foster Swift attorney uses virtual mediation during COVID-19 crisis, *Detroit Legal News*, April 27, 2020

Online Video Conferencing Allows for Virtual Mediation Amid COVID-19 Crisis, April 14, 2020

Eight Foster Swift Attorneys Included in GR Magazine Top Lawyers 2019, *Grand Rapids Magazine*, December 2, 2019

Foster Swift Listed in Best Lawyers® "Best Law Firms" 2020, November 1, 2019

Foster Swift Rated Tier 1 in 27 Practice Areas in Best Lawyers® "Best Law Firms", November 1, 2018

Six Foster Swift Attorneys Named Best Lawyers® 2019 "Lawyer of the Year", August 15, 2018

Grand Rapids Attorney Receives Outstanding Achievement Award from State Bar of Michigan, August 4, 2016

Fred Dilley Inducted to National Academy of Distinguished Neutrals for 2016, February 17, 2016

Julie Fershtman Selected for Two Additional Michigan Super Lawyers Honors, September 8, 2015

44 Foster Swift Attorneys Named to 2016 Best Lawyers in America® Roster, August 21, 2015

Foster Swift Attorney Julie Fershtman Selected for Michigan's State Bar 21st Century Task Force, July 17, 2015

Frederick Dilley named to Michigan Lawyers Weekly Leaders in the Law 2015, March 26, 2015

## EVENTS

Michigan's Changed Premises Liability Laws Pose Real Threat to Business and Property Owners, *Second Wednesday Sessions*, May 8, 2024

Children Are Our Future: Mastering Advanced Concepts of Custody, Parenting Time & Support, *American Academy of Matrimonial Lawyers (AAML) Conference*, May 2, 2024

What Happens if My Business Gets Sued?, *Legal Strategies for Women Leaders*, October 18, 2023

An Overview of Michigan's Felony Sentencing Guidelines, *Foster Swift Second Wednesday Lunch Break*, May 10, 2023

Litigation Series: Benefits of Alternative Dispute Resolution, *Foster Swift Second Wednesday Morning Break*, September 14, 2022

Perils of Nature and the Act of God Defense under the Carmack Amendment, *Transportation & Logistics Council*, March 22, 2022

Virtual Mediation Online, *U.S. District Court for the Western District of Michigan*, March 18, 2022

New Trends in Mediation And Other ADR, *Federal Bar Association, West Michigan Chapter*, October 1, 2021

Mediations by Remote Video Conferencing and Beyond, *State Bar of Michigan (SBM)*, October 16, 2020



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Foster Swift Explains Remote Mediation, *Michigan Business Network*, April 20, 2020

REPRESENTING CLIENTS IN MEDIATION: The Art of Effective Mediation Advocacy, *SBM: Alternative Dispute Resolution Section Labor & Employment Law; Litigation; Probate & Estate Planning; Real Property Law; and Young Lawyers Section*, June 6, 2017

How to Represent a Party in a Mediation, *Institute of Continuing Legal Education - Family Law Institute*

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