

Mediation Procedures

INITIATING MEDIATION

If all parties have already agreed to mediate, simply call us to discuss your preferred dates and location. If you wish our assistance in obtaining the agreement of others to mediate, contact us with the details for each party whose participation is necessary for a comprehensive resolution.

PRIOR TO THE MEDIATION

The following issues should be addressed:

1. **Participation:** Identify each party that needs to be represented at the mediation for productive negotiations to occur.
2. **Authority:** It is essential that everyone whose decision is necessary for settlement personally participate.
3. **Preparation:** The parties should evaluate what information is to be exchanged in advance of the mediation session to assist all parties in making realistic settlement decisions during the mediation.
4. **Briefs:** Submission of briefs is encouraged. Briefs should not exceed ten typed pages (plus exhibits) and should be received by the mediator at least fourteen business days in advance of the mediation.

AT THE MEDIATION

Generally, the mediation will begin with a joint session attended by all participants. Please come prepared to summarize your position during this session. You may utilize whatever presentation you believe most effective, including charts, audiovisual, and oral presentations by counsel and principals. Bear in mind that the goal is not to prove a case, but to clarify your views for decision-makers among the other parties while educating the mediator.

The joint session is followed by private confidential caucuses between the mediator and each party. In caucus, you can discuss information which may enable parties to work toward a resolution, but which you would prefer not to disclose in direct negotiations. The mediator will play devil's advocate to help all parties gain a balanced evaluation of the matter. Finally, the caucuses provide an opportunity to assess realistic options for resolution, without compromising any party's negotiating position.

Caucusing will generally continue until a resolution has been developed which all sides feel is acceptable. At that point, the mediator will summarize the terms of the agreement. You may then wish to draft and execute a memorandum stating the key terms.

FOLLOW-UP

If a resolution is not reached in the initial mediation session, the parties may elect to authorize follow-up. This may consist of telephone caucusing, further investigation or information exchange among the parties, and/or an additional mediation session. There is no charge for reasonable telephone follow-up. If however, another sit down session is required it will be billed at the daily rate applicable to that case.

CONFIDENTIALITY

All statements made during the course of the mediation or in mediator follow-up thereafter at any time prior to complete settlement of this matter are privileged settlement discussions, are made without prejudice to any party's legal position, and are non-discoverable and inadmissible for any purpose including in any legal proceeding. All records, reports, or other documents prepared by the mediator or submitted to the mediator in confidence by any party are confidential, and disclosure cannot be compelled under any circumstances.