

# **TOP TEN TIPS AND STRATEGIES FOR PREPARING YOUR CASE AND CLIENT FOR MEDIATION**

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## **1. UNDERSTAND YOUR CASE:**

What are your client's goals?  
What are the key stumbling blocks to achieve those goals?  
What are the other side's goals?  
Why not meet the other side's goals?  
Is there a partial loaf for both sides?

## **2. PICK THE RIGHT MEDIATOR:**

With respect to the key issues.  
With respect to the personalities of clients and attorneys.  
Do you want case evaluation?  
Do you want a listener or a doer?

## **3. PICK THE RIGHT TIME FOR MEDIATION:**

Is the necessary data in?  
Are the clients ready to settle?  
Where is the case postured with the court?

## **4. EDUCATE YOURSELF:**

Do you have enough info?  
Do you have expert reports in?  
Do you need more info or reports?  
Have you analyzed the info and reports?  
Have you run scenarios?  
Have you figured out ways to settle the case?

#### 5. EDUCATE YOUR CLIENT:

- Talk to your client about their goals and concerns.
- Talk to your client about the other's side's goals and concerns.
- Explain the mediation process.
- Explain the litigation process.
- Work on expectations of the client.
- Determine how risk averse the client is.
- Give the client solutions.

#### 6. EDUCATE THE OTHER SIDE:

- Give them the information that supports your claims.
- Give them the information that they need to be prepared.
- Share your arguments and legal support.
- Try to solve the other side's problems.

#### 7. EDUCATE THE MEDIATOR:

- Inform the mediator of the key issues.
- Give the mediator the key data.
- Share your opinion of the major barriers to settlement.
- Give the mediator settlement options.

#### 8. CONSIDER USING THIRD PARTIES:

- Will a CFI or therapist help?
- Will an accountant or financial advisor help?
- Is there a parent or confidant you need to include?

#### 9. THINK OUTSIDE THE BOX:

- Is there a non-traditional answer out there?
- Is there a way to divide the case into parts?
- Will a ruling help?
- Can you arbitrate what you can't mediate?

#### 10. WHEN MEDIATION FAILS:

- Figure out why it didn't settle.
- Did it fail, or was it just not able to settle?
- Is there something that can be done to get it back on track?
- Does your client need a reality check?
- Do you need a second opinion?
- Should you continue to use the mediator?
- Can you use the information you gathered from the mediation?