

MEDIATION BEST PRACTICES AT SOAH

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**Hon. Howard S. Seitzman, State Office of
Administrative Hearings**

AGENCY COUNSEL'S PERSPECTIVE

Be Prepared

- ▣ History of the case and previous offers
- ▣ The agency's theory of the case
 - Strengths and weaknesses
 - Expert reports
 - Availability of witnesses
 - Legal issues?
- ▣ Respondent's theory of the case

Be Prepared, cont'd

- ▣ Disciplinary guidelines, including where any proposed settlement will fall
- ▣ Awareness of agency policies that affect your ability to negotiate
 - Standard paragraphs
 - Consideration for settlements that don't receive agency approval

Advocate, Don't Argue

- ▣ No surprises
- ▣ Practice active listening
- ▣ Be flexible
- ▣ Be prepared to educate the mediator and the opposing party on disciplinary guidelines, agency policies, compliance procedures, etc.

Prepare Your Client

- ▣ Schedule and confirm, confirm, confirm
- ▣ Everything you just did? Go over with them.
- ▣ Prepare a negotiation plan
 - Opening statement
 - Preliminary range of acceptable settlement options
 - Questions for Respondent, preparation to answer questions from Respondent

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