

Getting the Most Out of Your Mediation: Tips to Maximize Your Mediation Time

UT Law CLE

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1

Written mediation statements



THEY ARE HELPFUL



PROVIDE REQUESTED INFORMATION

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2

Information that helps your mediator prepare

- Facts and law that support your client’s case or a favorable settlement for your client
- Key documents, case law, statutes, and rulings in your case (key parts highlighted)
- Summary of discovery that has been done and that remains
- Status of pending motions that will affect the negotiations
- Summary of settlement discussions—who has made offers to whom and responses
- Summary of categories and amounts of damages that your client will seek at trial
- Identify each decision-maker and mediation attendee
- Key insurance information (e.g. policy limits, subrogation reimbursements) and a summary of the status of insurance coverage (e.g. whether coverage for defense or indemnity are being disputed, etc.)

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3

Written mediation statements



SUCCINCT. THINK MEMO, NOT BRIEF



LAY OUT A CLEAR ROADMAP



IN ENOUGH TIME TO REVIEW AND REACT

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Pre-mediation conference



Take advantage of it to help the mediator help the parties

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Joint sessions and opening statements

Trend: fewer joint sessions and opening statements

Concern that the cons:

- Takes time and desire to “get down to business”
- Think know what everyone’s position and what will be said
- Emotions are high/will be counterproductive

May outweigh the pros:

- Opportunity to hear what is important to the other side
- Explain where your client is coming from
- Clients get to say what is important to them
- Set the tone—get mediation off on right foot

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6

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