

Lee Jay Berman

Mediator

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What to expect at your mediation:

INITIATING MEDIATION - If all participants have already agreed to mediate, simply call us to discuss preferred dates and locations. If you wish our assistance in obtaining the agreement of others to mediate, call or send to us the name, address, and telephone number of the attorney or other representative of each party whose participation is necessary for a comprehensive resolution.

PRIOR TO THE MEDIATION - The following issues should be addressed:

1. Participants who must be represented at the mediation for productive negotiations to occur.
2. Representatives on behalf of each participant. It is essential that everyone whose decision is necessary for settlement attend. In rare out-of-state cases, telephone participation can be arranged by mutual agreement.
3. Information to be exchanged in advance of the mediation session to assist all participants in making realistic settlement decisions during the mediation.
4. Briefs. It is our general policy not to use briefs as the respective parties' perspectives of the issues involved are more relevant in mediation. In cases where it is agreed that briefs will be used, they should not exceed five typed pages (plus exhibits) and must be received by the Mediator at least five business days in advance of the mediation.

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

Later in the session, the Mediator may utilize private confidential caucuses between the Mediator and each participant. In caucus, you can discuss information which may assist in working toward a resolution, but which you would prefer not to be disclosed in direct negotiations. The Mediator will help all participants gain the most balanced possible evaluation of the matter. Finally, the caucuses provide an opportunity to assess realistic options for resolution, without endangering any participant's negotiating posture.

Negotiations will continue to generate options until one surfaces which all sides feel is acceptable. At that point, the Mediator will draft a summary of the terms to which all parties have agreed.

FOLLOW UP - If a resolution is not reached in the initial mediation session, the participants generally decide to schedule a follow up appointment. Agreements reached in mediation tend to carry with them a very high compliance rate due to the fact that all participants agree to them before they become enforceable.

CONFIDENTIALITY - All statements made in the course of a mediation are confidential, privileged settlement discussions. All participants will agree that any statements made or information disclosed to the Mediator is privileged and that disclosure cannot be compelled under any circumstances.