

Pre-Mediation Tips for Attorneys

Thoughtful preparation is one of the most important factors in achieving a successful mediation.

Advance preparation helps parties identify key issues, evaluate risk, and maximize opportunities for resolution.

Provide Key Information in Advance

Counsel are encouraged to submit mediation statements, key pleadings, important exhibits, expert reports, medical summaries, insurance information, and other materials that may assist the mediator in understanding the case.

Confidential submissions are welcome and should be clearly identified.

Identify Decision-Makers Early

Ensure that all necessary decision-makers and individuals with full settlement authority are identified and available for the mediation.

Address attendance issues or authority limitations well in advance of the session.

Prepare Your Client

Clients should understand:

- The purpose of mediation
- The mediator's role
- The confidential nature of the process
- The risks and costs associated with continued litigation
- That mediation is a negotiation, not a trial

Set Realistic Expectations

Discuss prior settlement negotiations, anticipated challenges, and potential outcomes with your client before mediation.

Meaningful progress often requires flexibility and a willingness to reassess litigation risks as new information emerges.

Exchange Information When Appropriate

Early exchange of relevant information and meaningful pre-mediation communication often improve efficiency and increase the likelihood of resolution.

Confirm Logistics

Before the mediation, confirm:

- Participant contact information
- Attendance by all necessary parties
- Zoom access or travel arrangements
- Timing considerations
- Any special accommodation requests

Communicate Unique Issues

Advise the mediator in advance regarding any unusual circumstances, personality dynamics, sensitive issues, or procedural concerns that may affect the mediation process.

Early communication allows the mediator to tailor the process to the specific needs of the case.

Approach the Process Collaboratively

Successful mediation requires preparation, professionalism, and a problem-solving mindset.

The most effective participants remain focused on resolution opportunities rather than solely on positions.

