



The Civil Mediation Checklist:

Preparing For Your Mediation

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Welcome to this pivotal moment on your legal journey. If you're reading this, it means you've reached the mediation stage—an achievement worth celebrating. Take a moment to acknowledge the courage it took to get here. It's perfectly natural to feel a mix of emotions—nervousness, self-doubt, maybe even a hint of disbelief. But remember, you've embarked on this path because you believe in yourself and the pursuit of justice.

Mediation can be an emotionally charged experience, whether you're the plaintiff seeking resolution or the defendant defending your position. Yet, amidst the uncertainty, there's an opportunity for your voice to be heard, and for grievances to find resolution.

As you prepare for this important step, it's essential to recognize that outcomes may vary. Mediation is a voluntary process, and the possibility of not resolving your issue exists. However, it's also a space where agreements can be forged, paving the way for healing and closure.

Sometimes, despite sincere efforts, conflicts persist beyond the mediation table. External factors and complexities can impact negotiations. In such cases, litigation or arbitration might become necessary avenues for resolution.

Whether you're facing a mediation date or potentially heading toward a courtroom, knowledge is your greatest asset. Whether you have legal representation or not, arming yourself with understanding is key to maximizing the potential of your mediation meeting. You're not alone in this journey; let's navigate it together.



Step 1: Collect and Organize Documentation and Evidence.

Be prepared for your documents, evidence, and timeline of events to be questioned.

§ Ensure clarity and credibility by labeling each document with dates and subject matter.

§ Employ organizational tools such as color-coded folders or dividers to swiftly locate important information.

§ Gather all contracts, emails, images, transcripts, or any relevant materials that can prove your story.

§ Craft a concise timeline to serve as a reference during stressful moments, aiding in memory retention and focus. Writing out large paragraphs is not necessarily for this purpose. This text is solely for reference. During times of stress or anxiety, it is not uncommon to experience a loss of memory.

§ Categorize evidence into tiers based on strength, emphasizing items aligning most closely with your story to minimize doubt. Allow the supportive evidence to aid in strengthening your main evidence if needed.

Step 2: Do Your Research.

§ If you are representing yourself, in legal terms “Per Se”, delve into relevant laws and regulations, spanning federal, county, and state levels, as well as local ordinances if applicable. Online resources can be invaluable for comprehensive understanding. There are plenty of legal sites, government sites, and blogs that have the proper information to guide you.

§ Familiarize yourself with legal jargon, verifying definitions to maintain credibility and comprehension. Unfortunately, more often than not, people tend to be misinformed.

§ Explore past cases and complaints publicly available, drawing inspiration to strengthen your argument.

Step 3: Take The Proper Steps to Prove Your Case.

§ Anticipate potential counterarguments and gather evidence to tactically address them. Contemplate excuses, evidence, and documentation that can be used against you.

Pro Tip:

Word of mouth or simply saying a statement will not suffice and can weaken your narrative.

What Are The Mediation Rules?

1 You cannot bring additional people into your mediation without the consent of your Mediator.

2 If a translator is needed, you cannot use a friend or family member. You will need to hire or request a court appointed translator to ensure there is no mistranslation.

3 You do have the right to change your Mediator if you feel there is a conflict of interest or if you feel that the Mediator is not impartial.

4 You cannot record during your mediation. Confidentiality is required and if violated can have legal ramifications.

5 Mediators cannot be called as a witness for your case. This violates their oath to remain impartial.





Commonly used Legal Terms

1. **Case:** Refers to a legal dispute or lawsuit, which can be either criminal or civil in nature.
2. **Claim:** A legal demand for something, typically monetary compensation.
3. **Compensation:** The payment or benefits provided to someone as a result of a loss, injury, or damage.
4. **Affidavit:** A sworn statement of truth.
5. **Agreement:** A consensus reached between parties.
6. **Bench:** The seat of the judge or judges collectively.
7. **Defendant:** The person accused of a crime or sued in a civil case.
8. **Plaintiff:** The person who files a lawsuit against another for criminal or civil charges.
9. **Jurisdiction:** The authority or power of a court to hear and decide a case.
10. **Withdrawn:** When a lawyer takes back an objection or statement.
11. **Rebuttal:** A response or counterargument to the other party's evidence.
12. **Circumstantial Evidence:** Evidence relying on inference or presumption rather than direct observation or testimony.
13. **Motion to dismiss:** Is filed by either party in a lawsuit, requesting the court to throw out part of the case or the entire case itself.
14. **Remedy:** Relief that a court grants to claim.

For more legal definitions please visit:
<https://www.uscourts.gov/glossary>

§ Substantiate statements with tangible evidence, ensuring alignment between claims and documented proof to validate your narrative effectively.

For example, hypothetically you are claiming financial hardship. You should be able to supply documentation that can support a financial hardship situation. Documents like a financial hardship letter, bankruptcy, eviction, bank account statements, debt statements, liens, enrollment in any government debt relief programs, W2s statements, IRS forms/letters, and any additional written evidence that can prove your claim.

Step 4: Crafting Your Opening Statement (If required)

§ Keep your statement concise and focused on key points. In high-tension scenarios, most people want to include additional details to prove their case. However, this can lead to unnecessary scrutiny.

§ Consider writing out your statement, particularly in complex cases or if anxiety or disability is a factor, to maintain clarity and coherence. This should take no longer than a minute or two to present.

§ Emphasize factual violations, refraining from emotional impulses unless the event resulted in Post Traumatic Stress Disorder (PTSD) or other mental anguish and can be medically substantiated with tangible evidence.

Step 5: Regulate your emotions.

§ Mediation can be an emotionally taxing experience where wounds can be reopened. It is important to try to regulate your emotions. Understandably, that is a big ask and depending on the situation, may be impossible. Do not hesitate to request breaks to manage stress.

§ Individuals covered under the American Disabilities Act (ADA) should request an accommodation. Also note, that clients who are suffering from Post Traumatic Stress Disorder (PTSD), Complex Post Traumatic Stress Disorder (C-PTSD), or any invisible impairment can request accommodation.

§ Maintain composure during proceedings, utilizing provided writing materials for questions and concerns, while refraining from violence or threats.



Step 6: Expectations.

Recognize mediation as a negotiation, necessitating flexibility in expectations for outcomes. For cases that involve compensation, know that you will most likely not receive your desired payout.

Consider various potential outcomes, identify areas of flexibility, and assess actual damages and opposing constraints to facilitate productive negotiations. Make sure you consider the following before mediation:

- § What is a reasonable outcome?
- § Where can I be flexible regarding the possible outcome?
- § After reviewing the damages, what is the true cost of my grievances?
- § What are the restrictions or constraints of the opposition?

Step 7: Post Mediation Expectations.

If a settlement has been reached:

§ Upon settling, anticipate signing a Settlement Agreement, potentially including Non-Disclosure Agreements (NDA) or Non-Compete clauses depending on the case.

Pro Tip:

- *Establish 3 desired possible outcomes for your settlement.*
- *Statistically, odd numbers have a more desirable outcome than even numbers.*

§ In court-mediated cases, adhere to state requirements for filing Settlement Agreements and associated documents.

If a settlement has not been reached:

§ If a resolution isn't achieved, consider further legal options or closure of the case from your Mediator or legal counsel. It is not uncommon for a settlement to be reached during litigation if you should choose to move forward in the legal process.

§ Regardless of the mediation outcome, parties are bound by the terms of the Mediation Agreement, including any agreed-upon payments and rules by the Mediator.

In conclusion, preparing for civil mediation demands careful consideration and meticulous planning. From organizing documentation to managing emotions and setting realistic expectations, each step can play a crucial role in navigating the mediation process effectively. By adhering to the checklist provided and adopting a proactive approach, individuals can empower themselves to present their case confidently and work towards a mutually beneficial resolution.

Remember, mediation offers a platform for dialogue and negotiation, aiming to resolve disputes amicably and avoid prolonged litigation. Whether a settlement is reached or not, the experience of mediation underscores the importance of communication, understanding, and a willingness to seek common ground.

Ultimately, by following these steps and embracing the principles of mediation, individuals can approach the process with clarity, confidence, and the best chance of achieving a satisfactory outcome for all parties involved.



For more information about Civil Mediation please visit
www.MyMediator.JeannieSantiago.com

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