

SHOW NOTES FOR MEDIATION AND OTHER FORMS OF CASE RESOLUTIONS

It is said that a good compromise is when both parties are dissatisfied.

Not sure if I believe or like that and here is why.

ADR, CASE EVALUATION OR MEDIATION TYPES.

Sanctions and Restrictions of FORCED MEDIATION.

Reduces good cases to numbers.

Remember, a panel is only as good as their profession. So, you have to educate the mediator if the person has no background in your area.

Settlement discussions are not allowed to be public. Remember this and generally.

One person vs Three.

How Lemon Law Mediation was done.

If you must do it, best way to do it:

Treat it like you are going to trial.

Understand the basic concept. What specific rule applies and settlement discussions.

You receive a notice of your mediators in the mail. Look them up and see what they know and what side they most support.

In a three member panel, there will be a neutral, an attorney for the other side and an attorney on your side. Focus on the neutral.

Picking a panel member. If no consequence of mediation result, It does not matter.

If it does, investigate your choices fully.

Pro-tips:

Before the Mediation:

File a Motion to be relieved of Mediation and state why. Good paper trail if things go bad.

You have already done the work with your Answer and Counter Affidavit.

Your Mediation Summary should be just like your Answer and Reflect my number one rule: Use their documents in YOUR summary brief against the other side. Attach three Mediation Summaries.

Arguments during the Mediation:

Focus on the guy that supports you or the Neutral.

During the Mediation look to see if any of the panel members refer to others “as knowing more about this stuff than the rest of us.” Or does one person take a leadership role?

Now listen to how that person talks but really listen to their concerns. **While the other side talks, craft your spoken response to the big three:**

1. Your argument and why you will prevail (their own documents show you win and the law). Know your case better than the other side knows the case.
2. What the other side said that is false, be direct and bury them (see above on settlement discussions)
3. Repeat your argument, how the other side helps you and how the other side failed in their argument and close with your position again and look at the person you most believe is running things and the others are looking to guide them. He or She is the Judge.

After the Arguments:

Each Party meets with the panel separately to be asked the best amount they would agree to.

This is what I don't like. I am not there to seek half. Just in my lemon law example.

If there are sanctions for rejection, go as low as possible. Lemon law example.

Do cost benefit analysis.