



MEDIATION BRIEF GUIDELINES

Your mediation brief is an important document. Remember, unlike a Mandatory Settlement conference brief, your mediation brief is confidential between you and the mediator only. Tell your client's story in simple manner. Avoid hyperbole and exaggeration. Be candid about legal issues and risks as you perceive them. The following are suggested guidelines:

- Provide a brief summary at the beginning of the brief. Remember Who, What, When, and How.
- Tell something about your client's goals, perceptions, and concerns.
- Provide details of your client's economic damages and your view of the range of any general damages.
- Detail any expected special legal or evidentiary issues and provide your brief analysis with citations to authority.
- Provide critical documents or excerpts of documents like contracts, or medical records.
- A picture is worth a thousand words. Provide photos of persons, objects, and places. Provide maps if applicable. Provide copies of critical medical imaging. If available, provide photos of parties and witnesses.
- Include excerpts of critical discovery. Were depositions videotaped? If so, provide short clips of important testimony.
- Do you believe that a mediation opening statement by both sides will facilitate or hinder the mediation process?
- Are there any credibility issues with witnesses or parties?
- Are there any experts? Who are they? What is your perception of their credibility?
- What is your assessment of risk? Is it an admitted liability case? Is causation a problem? Is valuation going to be a question?
- What is your view of how the other side perceives the matter and the issues?
- What is your demand or offer? Has this been communicated to the other side? Are there any non-monetary considerations?