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**SUGGESTIONS FOR MEDIATION PREPARATION**

Update your own case analysis--evaluate your client's legal position based on all the current facts

If critical work needs to be done, do it before the mediation

Talk with your client about objectives

In mediation, what works best is a "Let's make a deal" attitude--client will not get an all-out win

In order to settle, it's not necessary to reach agreement about the past

Do a litigation risk analysis with your client

In particular, discuss costs and attorneys' fees through conclusion--I will

Review with the client what will happen at the mediation

Joint session(s), caucuses and downtime

Some ideas to discuss with the client include what amount of participation the client wants to have, especially in the joint session

The lawyer should prepare an opening statement, not just something off the cuff

Suggest that the client be prepared to make a statement too

Many clients are not used to talking; the client's type of participation depends on the type of person the client is, the type of person the lawyer is, and the type of case it is

The lawyer and client might want to meet with the mediator alone at the beginning of the mediation to confer on how best to express themselves

Discuss with the client bringing the best evidence to the mediation -- the other side won't pay for what it doesn't know about

Obtain and bring helpful declarations or other evidence to the mediation and insure the availability of key witnesses by phone, at least

Understand the other side's case too—have the client read the other side's pre-mediation brief