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Checklist for Pre-Mediation Conference

PLEASE DOWNLOAD AND PRINT BEFORE THE CONFERENCE—WE WILL USE IT THEN

Conference call Date/Time: _____

GENERAL INFORMATION

Case name

Court and case number (if filed)

Counsel

Counsel on the call

BACKGROUND AND STATUS

(Please try to supply me with the pleadings before the conference)

What is the case about?

What is the status?

Any previous settlement discussions?

Why are the parties interested in mediation now?

What do the parties want out of mediation?

Do they think it will require more than one session? (half day or full?)

Does the dispute encompass more than the parties to this case?

Are there issues between the parties beyond those presented in this case?

INFORMATION EXCHANGE

What is the status of discovery?

Is there unfinished document discovery?

Are there any depositions still to be taken?

Are there discovery disputes?

How will those get decided?

Can I assist in the information exchange?

What is the status of motions? Have all been filed?

Trial date?

Next status conference?

Other upcoming events?

Should the parties discuss changing the pre-trial/arbitration schedule?

What steps are necessary in order to do that?

MEDIATION CONSIDERATIONS

Are there any issues as to which there is agreement?

What are the primary areas of disagreement ?

What does each side feel comfortable in telling me about the client's attitude?

What are the personality issues?

What have the lawyers already discussed about the mediation process?

Should we begin in joint session?

Are there any persons who should attend? Any who should not?

Confirm that those with settlement authority will attend.

If there are corporate decision makers or others who must be consulted, confirm their availability by phone, including cell phone, during the entire session

Does any lawyer or client participant have time constraints on the day we choose?

Should experts attend? How could their work product be used? Agree in advance

CONFIRM SCHEDULE

Payment of full or half day deposit to confirm date—what the deposit covers—nonrefundable (see website for details)

Location, date and time to meet:

Who will bring lunch/snacks?

Any need for audio or video at the session?

Mediation briefs--exchange them and make sure the clients see them in advance of the mediation

Give me anything confidential in a separate letter.

Date by which briefs will be exchanged:

Are there any other documents I need to see? Schedule for providing them

FINAL PREPARATION

I will prepare the mediation confidentiality agreement and include any disclosures in it.
(Agreement samples are available on my website)

Plaintiff's/Claimant's counsel—bring support for amount demanded (Verdicts and Settlements, e.g.)

All counsel—bring evidence, including witness statements, that might be shared as the mediation progresses

Who will bring a laptop to the mediation with a draft agreement on it?

Either party's lawyer may get in touch with me before the mediation by phone or email to Lalamothe@dispute-solutions.com to kick around ideas

I may ask questions of the lawyers or raise issues by phone or email ahead of the mediation.

The lawyers may send their briefs by email, too

Articles on my website may be of interest.

In particular, download from my website and review with your client my "Suggestions for Mediation preparation."

Counsel are reminded to advise their clients about the implications of mediation confidentiality and get a signed acknowledgment from the client before the mediation session.

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