

Instructions for Completion of Mediation Conference Submission Civil & Personal Injury

To facilitate a meaningful mediation conference, the accompanying information should be submitted by each party prior to the scheduled conference. Submissions should not be exchanged.

Parties and Representation: Identify the party you represent and, if possible, all persons who will be attending the conference and their role in the case.

Brief description of the case: The type of case, i.e., nursing home, auto negligence, malpractice, contract, etc., should be identified. A brief statement of the facts outlining the way in which the claim arose should be included.

Theory of the claim: Plaintiff's counsel should state the factual basis of your allegations and theory of recovery against each defendant whether contract, grounds of negligence or otherwise. Defendant's counsel should state the factual basis for any defenses such as allegations of comparative fault, if any, of the Plaintiff or any other entity against whom fault is claimed.

Issues of causation: Plaintiff's counsel should identify the nature of your client's injuries, losses and/or damages and the causal connection between defendant's acts and those damages claimed. If causation is to be a defense, Defendant's counsel should detail the proof on the issue of lack of causal connection (Reports of expert witnesses on this topic and issues of fault may be attached).

Insurance applicable: Defense counsel should identify all applicable insurance, including limits and exclusions, if any. If the case is being defended on a reservation of rights, the reasons for that should be identified. If possible, please identify the claims representative who will be attending the conference.

Damages: Each party should set forth their realistic assessment of damages in each category applicable. Economic reports and future care plans, if applicable, may be attached. In personal injury cases if permanent damages are alleged, give your assessment of the Plaintiff's life expectancy. In contract claims the categories of and the method of calculation of the economic losses should be comprehensively set forth. Any unique or unusual aspects of damages should be thoroughly discussed.

Legal issues: Any legal issues bearing on a party's approach to settlement should be identified. The basis for any pending or expected dispositive motion should be set forth. Any statutory, legal or contract limitation on recovery should be identified.

Demands and offers: Each party will set forth settlement positions taken prior to the conference.

Estimate of case expenses: Each party should make a realistic estimate of the costs and expenses (including attorney fees) remaining if the case is tried.

Settlement Evaluation: Each counsel should identify any issues not set forth in the above categories that may have a bearing on the negotiations in this case. I would like each counsel to set forth under this heading their realistic options regarding the prospects of settlement of the case. This information will obviously remain **confidential**.

Patrick Nichols, Mediator, ADR.LLC
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Suggestions for Completion of Mediation Conference Submission: Personal Injury.

To facilitate a meaningful mediation conference, the accompanying information should be submitted by each party prior to the scheduled conference. Submissions should not be exchanged.

Parties and Representation: Identify the party you represent and, if possible, all persons who will be attending the conference and their role in the case.

Brief description of the case: The type of case, i.e., nursing home, auto negligence, malpractice, contract, etc., should be identified. A brief statement of the facts outlining the way in which the claim arose should be included.

Theory of the claim: Plaintiff's counsel should state the factual basis of your allegations and theory of recovery against each defendant whether contract, grounds of negligence or otherwise. Defendant's counsel should state the factual basis for any defenses such as allegations of comparative fault, if any, of the Plaintiff or any other entity against whom fault is claimed.

Issues of causation: Plaintiff's counsel should identify the nature of your client's injuries, losses and/or damages and the causal connection between defendant's acts and those damages claimed. If causation is to be a defense, Defendant's counsel should detail the proof on the issue of lack of causal connection (Reports of expert witnesses on this topic and issues of fault may be attached).

Insurance applicable: Defense counsel should identify all applicable insurance, including limits and exclusions, if any. If the case is being defended on a reservation of rights, the reasons for that should be identified. If possible, please identify the claims representative who will be attending the conference.

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Legal issues: Any legal issues bearing on a party's approach to settlement should be identified. The basis for any pending or expected dispositive motion should be set forth. Any statutory, legal or contract limitation on recovery should be identified.

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Parties and Representation: Identify the party you represent and, if possible, all persons who will be attending the conference and their role in the case.

Brief description of the case: The type of case, wrongful termination, wage and hours, harassment, discrimination, etc., should be identified. A brief statement of the facts outlining the way in which the claim arose should be included.

Theory of the claim: Plaintiff's counsel should state the factual basis of your allegations and theory of recovery against each defendant. Defendant's counsel should state the factual basis for any defenses such as allegations of failure to exhaust, lack of proof, etc., if any, of the Plaintiff or any other entity against whom liability is sought.

Insurance applicable: Defense counsel should identify any applicable insurance, including limits and exclusions, if any. If the case is being defended on a reservation of rights, the reasons for that should be identified. Any substantial payments to be made by the client under the policy should be set out. If possible, please identify the claims representative who will be attending the conference.

Damages: Each party should set forth their realistic assessment of damages in each category applicable. Economic reports and future losses, if applicable, may be attached. If non-economic damages are alleged, give your assessment of the Plaintiff's life expectancy and information on evidence of the claim. The categories of and the method of calculation of the economic losses should be comprehensively set forth. Any unique or unusual aspects of damages should be discussed.

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