

MASTERS



RIBAKOFF

mediation • arbitration • investigation

PROTOCOL for MEDIATION WITH CHRISTINE MASTERS

MEDIATION IS A PROCESS: Mediation is a voluntary, non-binding process of dispute resolution quite unlike arbitration or litigation. I make no judgment, findings or rulings. Through a variety of techniques, I will assist you in making an informed decision about whether to settle this matter, and negotiating settlement terms which are mutually acceptable. My role is generally to facilitate, not control the settlement process.

THE PROCESS TAKES TIME: Please be prepared to spend the time necessary in advance of the mediation day to exchange information with me, and during the mediation day, to exchange information with the other side either directly or through me and to fully exhaust settlement opportunities. And document any agreements which are reached. Employment mediations typically last a full day, occasionally extending into the early evening. Particularly difficult cases may take more than one mediation session, either on consecutive days or over a longer period of time. Telephonic follow-up after the mediation session can be required in order to come to resolution, but the goal is to reach settlement during the mediation hearing.

DECISION MAKERS SHOULD BE PRESENT: The parties' opportunity to reach settlement is greatly enhanced by the physical presence at the mediation of the primary decision-maker(s), as well as access to key fact witnesses. The presence of individual defendants is not always necessary and can sometimes even hinder progress towards settlement; at other times, their attendance is critical. Please consider the make-up of your team thoughtfully and let me know if you would like to discuss possible options. If it is not possible for the ultimate decision-makers or carrier representatives to be physically present, please make sure they are readily available by phone. I may ask to speak with them, even if they are not present.

INDIVIDUAL PRE-MEDIATION TELEPHONE CONFERENCES WITH COUNSEL: Prior to the confirmed mediation date, I like to have a telephonic conference with counsel for each side to discuss separately how the mediation process might best be tailored to suit the particular situation. This discussion serves as an introduction to me as the neutral, allows us to deal with any procedural questions, and/or provide an opportunity to confront particular issues of concern to you or your client, which you might not want to deal with at the mediation session itself, such as interpersonal relations. I will also want to discuss who will be physically present at the mediation and/or who else might be involved in your decision-making process. You are also welcome to contact me directly at any time prior to the mediation to discuss any concerns or questions. Unlike arbitration, there is no prohibition about ex parte contacts with a mediator.

THOUGHTFULLY PREPARED BRIEFS ASSIST ME TO SERVE YOU BETTER AND INCREASE THE CHANCES THAT YOUR CASE WILL RESOLVE: Ideally, briefs should be submitted to me at least five (5) days prior to the mediation, but if that is not possible, please just let me know when to expect your submission. *I prefer to receive briefs by email, unless your submission has a significant number of attachments or far exceeds ten (10) pages, in which case it should be mailed to me at 11601 Riverside Drive, #1035, Toluca Lake, CA 91602.* The most helpful briefs contain a concise statement of facts or chronology of events, identification of the key factual or legal issues, a detailed damages analysis, and your candid assessment of any barriers to settlement. You may attach highlighted copies of pertinent documents, or simply bring them to the mediation. Please bring key deposition transcripts so disputes regarding testimony can be easily resolved.

In addition, your brief should set forth the procedural history of the matter, and what, if any, settlement negotiations have taken place to date, including any specific demands or offers. Please know that I will seek your permission before disclosing any information if you consider your brief confidential. That said, in order to facilitate the exchange of information especially in pre-litigation matters, I encourage you to consider exchanging briefs with opposing counsel. If you do exchange briefs, please do so in advance of the mediation so that there is sufficient time for the other side to consider your position. In that case, you may also wish to submit to me a separate confidential statement of your settlement position. You may also wish to consider an early exchange of non-monetary settlement points about which your client feels strongly, such as confidentiality, eligibility for rehire, taxation issues. Such exchange can make finalization of settlement more efficient. A draft settlement agreement should be brought to the mediation on disk or laptop.

LOCATIONS FOR MEDIATION

I can provide mediation services through PMA – Dispute Resolution. PMA has offices in downtown Los Angeles at 707 Wilshire Blvd, Suite 4760 in Los Angeles, in Century City at 1801 Century Park East, Suite 2600 in Century City., Irvine at 20 Corporate Park, Suite 300 in Irvine. PMA also has offices in the Inland Empire, San Diego, San Francisco, and Las Vegas. The mediation may also be scheduled to take place at the private mediation offices in Toluca Lake at 246 North Pass Avenue in Burbank or any other location agreed upon by the parties.

If we have agreed to hold the mediation in private offices, I will ask you arrange to have separate conference rooms for each side, as well as a private area for me to use during downtimes or for private caucusing. Internet access for me and opposing counsel, coffee, sodas, water, etc. are also typically made available. It is not necessary to provide lunch at your expense, but easy lunch availability or ordering information makes for an efficient use of time. Parking validation for me and opposing counsel would be courteous and appropriate.