



MEDIATION INFORMATION for Mark W. Bennett

In the first paragraph of you mediation statement please provide:

The date, place or Zoom, and start time of our mediation. So, I can confirm we are on the same page, as well as the persons and positions of the folks attending.

What your client(s) need to know before our mediation.

What is mediation? Make sure they know that everything they do is voluntary and that I have no power to decide anything. I may recommend matters, but the clients and you as their lawyers make all **final decisions** about what to do.

We will not have a joint session unless both sides agree to one – which is generally a bad idea. The parties will be separated, and if on Zoom in separate breakout rooms. If your clients are not used to Zoom breakout rooms, please explain.

Everything we discuss will be confidential unless I receive specific permission to share. This encourages candor in our conversations and helps me help you and your clients.

515-414-1186

mark.bennett@drake.edu / mark@mbennett.us

<https://www.mbennett.us/>





Clients should be prepared for a high opening demand and low opening offer. Please advise the clients not to be offended by this. I do not like this but generally this is how mediations roll.

The mediation will last as long as it takes to obtain a resolution or for an impasse to be declared. Even with an impasse many mediations are resolved with my follow-up.

What should I be called. Some prefer to call me “Judge”, based on what I used to do. I prefer “Mark” but I am fine with anything. Including “hey you” 😊

I do not take a lunch break and will work through lunch but please feel free to eat/drink.

Suggestions for best practices

Share your mediation statement, or most of it, with opposing counsel. This dramatically improves the chances of our successful mediation and makes our mediation more efficient.

If you have a timeline of important events or a list of the cast of characters - please share it with me.

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If there are key rulings in the case or key cases on legal issues send them to me.

Exchange at least one demand and offer prior to the mediation. This helps reduce but does not eliminate “sticker shock.” Let me know the settlement history if any.

Non-monetary terms can be but most often are not problems. Please advise ahead of time if you see any potential issues. Terms like “confidentiality” and “non-disparagement” often have different meanings to different lawyers. Please get important non-monetary language for terms on the table early. This may be helped by sending a draft settlement agreement to the other side prior to mediation.

Please feel free to contact me ahead of time for a private pre-mediation discussion, especially if you believe I need to know some things about your clients that are an impediment to resolution.

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