

WILLIAMS & WILLIAMS MEDIATION

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CONFIDENTIAL QUESTIONNAIRE

Please Return to the Mediator Prior to the Scheduled Mediation

MEDIATOR'S ROLE:

1. Do you want me to act as your settlement facilitator to:
 - a. Provide evaluation of party positions and exposures? YES NO
 - b. Express my opinions on liability, value and apportionment issues? YES NO
 - c. To use separate sessions to go over all matters with the parties? YES NO
 - d. Instead, to use separate sessions (caucuses) only when a party requests such caucus to convey confidential information, and with that exception, let the parties always deal directly with each other as I monitor? YES NO
 - e. To convey change positions and offers/demands from separate meeting sessions? YES NO
 - f. OR, instead to let the parties exchange all offers/demands face-to-face? BOTH YES NO
 - g. Act only as a neutral facilitator of communication to let parties reach their own resolution? YES NO
 - h. Other (explain) _____

2. Do you want me to offer opinions to your client(s) or claims representative in separate session how I evaluate the case if asked by them?
 - a. On liability YES NO
 - b. On damage matters YES NO
 - c. On potential jury verdict value decisions in this County in this case YES NO
 - d. On economic considerations in this litigation affecting settlement value YES NO

3. Will you allow me to continue to have separate phone and face-to-face sessions for resolution advancement after that day's formal meeting has concluded? YES NO

CLIENT'S ROLE:

Tell me what you want concerning the participation and involvement of your client and the client(s) of the other attorney(s):

1. Whom do you want to be present at the mediation?
 - a. The other attorney's client(s) YES NO
 - b. The other attorney's corporate officer YES NO
 - c. The other attorney's claims representative YES NO
 - d. The actual insured YES NO

2. Do you want the parties themselves to participate
 - a. In the mediation in any way? YES NO
 - b. In face-to-face negotiations? YES NO
 - c. Other (explain) _____

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- 3. Do you want the plaintiff(s) to make a brief presentation
 - a. On current injury status, present complaints, future problems? YES NO
 - b. Other (explain) _____

PRELIMINARY MATTERS:

- 1. Do you have client control? YES NO
- 2. Will your client accept any recommendations you may make during the mediation? YES NO
- 3. Do you want me to play any role in talking to the client? YES NO
- 4. Prior to the mediation, will you have met with your client(s) or claims representative to fully advise them of:
 - a. The current pre-mediation offers and demands of the other party? YES NO
 - b. Your range of settlement values of the case, including:
 - (1) the figure where you would like to see the case settle; YES NO
 - (2) the figure which is the optimum settlement, and YES NO
 - (3) the figure where you will go past (1) and (2) to see it settle? YES NO
- 5. Do the means for resolution include possibilities of a structured settlement? YES NO

- 6. Negotiation History:
 - Original History: _____ Original Offer: _____
 - Current Demand: _____ Current Offer: _____

Additional Background / Explanations: _____

- 7. Does your case have any Liens? If so, state the current amount of each: YES NO
 - a. Medical _____
 - b. Legal _____
 - c. Worker's Compensation _____
 - Comments: _____

- 8. Is there any medical pay insurance available from any source, including the defendant(s)? YES NO
 - If so, state how much is
 - a. Available _____
 - b. How much has been paid: _____
 - Comments: _____

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BACKGROUND AND PROCEDURAL STATUS OF CASE:

- 1. Who is the Team Leader Judge (if Santa Clara County)? _____
- 2. Has there been a Case Management Conference? YES NO
 If so, on what date(s) _____ Judge: _____
 What is the date of the next CMC? _____ Judge: _____
- 3. Is there a Mediation/Arbitration Review Hearing scheduled? YES NO
 If so, what is the date(s)? _____
- 4. Is there a Trial date in this case? YES NO
 If so, what is the date(s)? _____
- 5. Is this Mediation in Lieu of Arbitration? YES NO
- 6. Is there a Mandatory Statement Conference? YES NO
- 7. Have you been to Non-Binding Judicial Arbitration? YES NO
 If so, state:
 a. The arbitrator's name: _____
 b. The date of arbitration: _____
 c. The arbitrator's decision: _____

CASE & CONTRACT INFORMATION:

NAME OF CASE: _____
 Superior Court Number: _____
 W&W Case Number: _____

ATTORNEY: _____
 TELEPHONE: _____ FAX: _____
 CELL PHONE: _____
 EMAIL ADDRESS: _____

CLIENT: _____
 If you are a Defendant, state:
 a. The name of the insurance carrier:
 b. The name of the claims representative who will be present at the mediation:

 c. The name of the claims representative who will be available by
 telephone standby (if all other parties have agreed to this form of participation).

 Mobile Phone Number: _____

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CONFIDENTIAL & DETAILED STATEMENT ON WHY THIS CASE SHOULD SETTLE NOW IN MEDIATION

Please outline the key problems that the mediator and parties will have to overcome to reach a settlement. *(Do not serve this on the other side even if you serve a copy of the other responses.)*
