

Fulfilling (Exceeding) Expectation of Mediators by Lawyers and Clients

ADR COURT CERTIFIED NEUTRALS WEBINAR
U.S. DISTRICT COURT EDMO

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- Jessica L. Liss (Jackson Lewis, P.C)
- John S. Wallach (Law Offices of John S. Wallach, P.C.)
- Robert D. Litz (USA&M)



Expectations: Stages of Mediation

1. Before Mediation
2. During Mediation
3. Post Mediation (when case does not settle)
4. Best Practices Mediation Remotely

Expectations: Before Mediation

Position Papers/Mediation Submissions

- Pleadings
- Deposition Transcripts
- Photographs/Contracts
- Key Case(s)

Speaking with Mediator

Expectations During Mediation

Caucus First with Mediator

Joint Session

- Meet & Greet
- Opening Statements
- Having Clients Speak

Meeting with Mediator Privately Without Clients

Best Practice for helping attorneys with difficult clients

Expectations During Mediation

Breaking Impasse

- Brackets/Conditional Offers
- Mediator's Proposals

Mediator Styles: Facilitative/Evaluative/Directive

Mediator Qualities

- Patient
- Get right to the point (don't waste time)
- Mediators suggesting Brackets early in process

Documenting Settlement – Mediated Settlement Agreement/Terms Sheet: Who drafts?

Expectations: Post Mediation when case does not settle

Mediators continuing communications with counsel via telephone

Mediator offer subsequent mediation session

- After key depositions
- Ruling on key motion

Best Practices Mediating Remotely

Technical Expectations of Mediator

- Video (Zoom, etc.) Breakout Rooms and Joint Sessions
- Combination of Video and Telephone
- Test run of Zoom with Mediator

Questions?

