

TAILORING THE MEDIATION PROCESS TO THE CASE

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1. Introductions – Experiences with mediation
2. What is mediation? (no singular definition)
3. What is its purpose?
 - a. Focus on settlement of claims
 - b. Focus on problem solving
 - c. Focus on repairing/improving relationship
4. Flexible process with multiple approaches to meet needs and situation
 - a. Get right participants at the table
 - b. Moderate direction and purpose
 - c. Learn details of case, allowing parties to present legal arguments, raise underlying concerns and hear other side's perspective first hand
 - d. Coach
 - e. Translate
 - f. Cheerlead
 - g. Include everyone
 - h. Reframe positions to interests
 - i. Invite imaginative options
 - j. Assess likely outcome
 - k. Track areas of agreement
 - l. Help parties reach workable, durable agreements
5. Adaptive structure and format
 - a. Premediation communications
 - i. Attorney
 - ii. Client
 - b. Online, telephonically, in person
 - c. Opening session
 - d. Caucuses/separate meetings
 - e. Joint sessions
 - f. Follow up
6. Benefits
7. Open discussion