

Cheat Sheet Mediation 101

Phase One: Start / Gather Information / Develop an Agenda

- Mediator orientation session (opening statement)
- Tell us (*or the other party*) what has brought you here today?
- Plaintiff: opening statement
- Defendant: opening statement
- Mediator creates an agenda from parties' opening statements
- Mediator asks clarifying questions, if any
- Mediator summarizes issues from P& D opening statements

Phase Two: Joint Problem Solving by Parties / Getting to Yes

- What would you like to see happen here today? [*Issues rather than positions may be revealed*]
- Do you have any ideas for resolving this (these) issues?
- Help parties joint problem solve – open ended questions
- Help parties identify their own interests and common goal(s)
- Agenda - work issue by issue
- *Dicks Drop Dead Questions*

Phase Three: Exploring Options for Settlement Separately

- Separate session (caucus) as a tool for reality testing
- Introduce closed ended questions
- Ask the party to describe what happens if the issues are not resolved today?
- Will court bring the party closer to her goals (*interests*)?
- How confident is the party that the judge will rule in her favor and the other party will do what the judge says?

Phase Four: Reconvene

- Post separate session – who reveals what happened?

Phase Five: Ending

- What happens now? [options: agreement, no agreement, come back for a another mediation session]