

The Mediation Agency

29 October 2007

Re: Your forthcoming mediation

Dear [Name of Party]

We are pleased you have opted to mediate your dispute and trust you will find it to be a positive experience. This information will give you an overview of the process, and offer good advice on how to prepare for your mediation in advance and what to expect on the day.

You are welcome to call us at any time if you have additional questions or need anything clarified before the mediation. You will find our contact information included at the end of this letter.

Some basic information about mediation:

Mediation is a voluntary confidential meeting between disputing parties¹ and a trained neutral mediator who facilitates a discussion of issues and potential solutions toward a mutually acceptable resolution.

As a neutral part of the negotiations, mediators do not take sides or decide how a dispute will be resolved. Nor do mediators make judgments, investigate the charges or decide who is right or who is wrong. The mediator may suggest possible resolutions, both in open meetings and within the privacy of caucus². The mediator helps parties to clarify their positions, disclose individual interests, and allow for better communication between parties. The mediator will also help parties to anticipate potential outcomes, and a future based upon the decisions they make. This is an important role for a mediator as people embroiled in conflict often make rash decisions that they later regret. Remember that ultimately the parties control the outcome and finalise any potential agreements that dictate who, what, when and where any agreement is to be fulfilled.

Before your mediation:

We offer the following suggestions to prepare participants for a positive mediation experience. The mediation conference presents the opportunity for you to have an open and honest exchange of information to seek common ground for a mutually satisfactory resolution of your dispute.

- Understand the differences between mediation and litigation.
- Know or discuss your legal rights with a qualified solicitor. Remember, although it is not required, you are welcome to bring legal counsel with you to your mediation.
- It is important for participants to shift from an adversarial approach to a problem-solving, interest based approach before the mediation conference.
- Consider the range of possible solutions - think of positive outcomes for everyone, and privately prepare for your best-case outcome as well as the worst possible outcome.

¹ In mediation the participants, or owners of the dispute, are referred to as “parties.”

² A mediation “caucus”, is a private meeting between two or more people to discuss details that cannot be disclosed during an open mediation.

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Beginning your Mediation: *The Mediators Opening Statement*

The mediator, or mediators if you have two, will briefly talk about the mediation process in general and how your mediation will proceed; this is called an “opening statement.” Listen carefully as it contains important details about confidentiality, the mediator’s role and what to expect during the mediation.

During the mediation:

- After the mediator's opening statement, everyone in the room; the parties, support people (friends, spouses, partners) mediator(s), or lawyers if present, will sign the confidentiality agreement. [See Confidentiality Agreement enclosed for your review]
- To begin the mediation, the mediator will ask one of the parties to briefly summarize their view of the dispute and current situation. The remaining party or parties will be given the same opportunity next. Please note the mediator makes an unbiased, situation-based judgment as to who goes first – this does not mean he or she favours one party above another.
- The mediator will begin to ask questions of the parties to help to clarify the issues and uncover potential misperceptions and may call for caucus with either party or his or her co mediator at any time. Remember these private discussions are always in the interest of moving the mediation process forward and never an indication that something is wrong or showing favouritism towards one party or another. Remember that during the mediation you can request a caucus with the mediator at any time should you need to say something important that you would rather the other party or parties not hear.
- Focus on issues not personality. Open your mind (and your ears) to listen carefully to what the other party or parties and mediator have to say as it may help you to understand, from another point of view, how this dispute grew and how to prevent similar conflict from occurring in the future.
- Be respectful of the process of mediation and try not to interrupt the other party. You may take notes to help you to remember what points you would like to address when given the opportunity to respond. *(At the conclusion of the mediation, all notes will be collected and destroyed in keeping with the terms of the confidentiality agreement.)*
- If the mediation is moving forward, but needs more time to reach a conclusion or agreement, the mediator and the parties have the option of reconvening to continue at a later date. If this happens, do not be dismayed as it is an encouraging indication that you and the other party are working hard to find a solution.
- Remember you are in control of the process and can stop or postpone the mediation at any time if you need to consult with your legal advisor or end the mediation entirely and proceed with litigation.
- The terms of the Confidentiality Agreement remains in force both during and after the mediation are concluded.

Contact Information for your Mediation Coordinator:

Name: _____ Phone: _____

Email: _____