

## Mediation and Dispute Resolution Questionnaire

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I designed this questionnaire for disputes in which I am a mediator, to help you prepare for mediation and resolution of your dispute, and for you to provide me with information so that I can help you to mediate a settlement of your dispute. Preparation is important to mediate effectively—and it should help you evaluate your position or case. I ask that you provide complete answers to the below questions, and that you provide me with your answers at least one week before the scheduled mediation. Your answers are completely confidential—they will not be shared with the other party(s). I am having the other party(s) provide me with answers to the same questions.

In one version of this material I have also inserted spaces or text fields which should allow you to insert comments and information. If you are using that version of this material with adobe reader and you insert text into a text box you will not be able to save your inserted text—you should print the pages in which you have inserted text—additionally, the text that you can print cannot exceed the original borders and boundaries of the text box without expansion. Of course, if you are using this form with adobe acrobat you should not have those limitations. It may be more convenient to use this paper if you print a hard copy so that you can more easily refer to the paper as you complete the steps and information below.

Thank you. I am looking forward to working with you to settle your dispute or case.

David Tate, Esq.

Please provide me with the following information as appropriate for your case:

Today's Date:

Your name:

Your title or position:

Your employer:

Your address where I can reach you by mail:

Your phone number:

Your fax number:

Your e-mail:

The name of your attorney or representative if you have one:

Contact information for your attorney or representative (name, firm, phone, fax, e-mail, address):

1. In the order of importance to you (beginning first with the most important), please list and describe, including important dates, each item for which there is a disagreement or dispute, including your views or positions, and, if you know or have a belief, the views or positions of the other party(s).

2. For each item discussed in number 1 above, describe conversations, documents, agreements, industry standards and other items that support your views or positions. I encourage you to provide me with copies of important documents. You should also bring copies with you to the mediation.

3. For each item discussed in number 1 above, describe conversations, documents, agreements, industry standards and other items that tend to support the views or positions of the other party(s). I encourage you to provide me with copies of important documents. You should bring copies with you to the mediation.

4. For each item discussed in number 1 above, if you have been injured and/or damaged list each person and/or entity that caused or contributed to your injuries and/or damages; describe what each such person or entity did wrong that caused or contributed to your injuries and/or damages; and estimate the percentage of fault that you attribute to each such person or entity for causing or contributing to the injuries and/or damages.

5. For each item discussed in number 1 above, if it is claimed that you caused or contributed to injuries and/or damages, describe why you are not responsible for causing or contributing to the injuries and/or damages; list each person and entity who is responsible for causing or contributing to the injuries and/or damages; and estimate the percentage of fault that you attribute to each such person or entity for causing or contributing to the injuries and/or damages.

6. For each item of alleged injury and/or damage estimate the value or amount of each such injury and/or damage regardless of who you believe is responsible or at fault for causing or contributing to the injury and/or damage.

7. For each item discussed in number 1 above, describe the resolution offer(s) that the other party(s) has made (if any) to resolve or settle each item of dispute.

8. For each item discussed in number 1 above, describe the resolution offer(s) that you believe the other party(s) would be willing to make to resolve or settle each item of dispute.

9. For each item discussed in number 1 above, describe the resolution offer(s) that you have made (if any) to resolve or settle each item of dispute.

10. For each item discussed in number 1 above, describe the resolution offer(s) that you would be willing to make to resolve or settle each item of dispute.

11. For which of the items that you discussed in number 1 above do you believe that you are close to agreement or settlement with the other party(s)? Please list and discuss.

12. For each item discussed in number 1 above, describe the criteria that you would use to determine whether a settlement proposal is reasonable.

13. For each item discussed in number 1 above, describe or explain the award or remedy that you believe a judge, arbitrator or trier of fact will most likely give you if this dispute does not settle, and why you believe that a judge, arbitrator or trier of fact will give you that award or remedy.

14. Describe how the other party(s) has been unfair to you. You may feel that you have already answered this question in your above responses. If so, please indicate. However, if you would like to provide further responses or if you would like to answer to this question with a different viewpoint or in a different manner than what you have already provided above, please feel free to do so.

15. This question might call for a longer response. What additional information, if any, do I need to know to help you and the other party(s) achieve resolution? Your case history includes important past events about which I am not aware—for example, things that have happened or that people have said or done, or perhaps events involving relationships and emotions. It would be most helpful if you would describe those for me here and also indicate for how long those difficulties have been ongoing.

16. What else do you suggest should be done, and what else should I do as a mediator to help you and the other parties reach resolution of the items in dispute?

Mediation briefs. In a mediation where parties are represented by legal counsel it is common that the attorneys also might submit mediation briefs. You may submit a mediation brief in addition to your responses to this questionnaire. However, I do request that you provide complete answers to this questionnaire even if you submit a mediation brief. If you do wish to submit a brief, the parties should reach an agreement whether briefs also are going to be exchanged between the parties, and the timing of an exchange, if any. Generally, it can be helpful for there to be an exchange; however, in some cases it might be disadvantageous in light of the private information and comments that one or more of the parties wants to privately disclose to the mediator. Of course, a party can exchange limited information with the other party(s), while also privately providing additional information and to the mediator.

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