

TOPS TIPS FOR MEDIATING HEALTHCARE DISPUTES

- a. Come to table with a range of possible settlements
- b. Always have an idea prior to mediation what each side is demanding/offering
- c. Send the mediation a brief Mediation Statement prior to the conference
- d. Make sure other side is bringing client whenever possible
- e. Always consider venue for case evaluation
- f. During mediation do not get into arguments with opponent
- g. Always make offers and demands so that you have room to move
- h. Be honest with the mediator
- i. Be patient during the process
- j. Plaintiff should provide defendant with as much documentary proof of damages as possible
- k. Never negotiate backward
- l. Structured settlements help
- m. Consider litigation costs
- n. Never good idea to give adversary your walk away number
- o. Research reported settlements and jury verdicts prior to mediation
- p. In cases with high exposure and coverage, research appellate cases
- q. Make big moves early and small moves later
- r. Do not make ultimatums
- s. Never put a time limit on a mediation
- t. Great time to mediate is when there is a pending summary judgment motion
- u. Determine lien amounts
- v. Obtain Medicare information when necessary
- w. Harness momentum in mediation
- x. Each side should share equally in mediation fees
- y. Dealing with co-defendants