

CHECKLIST FOR CLIENT MEDIATION PREPARATION

1. You will learn that mediation is in the nature of a mediator-assisted settlement conference.
2. Different formats may be used by the mediator including the possibility of a joint session, private meetings with each party, and shuttle diplomacy. Mediation is not the day or time for posturing!
3. There may also be lawyer/lawyer, lawyer/mediator conference.
4. The greatest benefits to mediation are agreements that can be reached in mediation that are not available in court and the ability to have input into the result.
5. You will find Judge Jones to be highly qualified. Please visit www.JudgeGilJones.com.
6. The mediator is totally committed to neutrality and confidentiality.
7. Mediation is a non-binding process, unless or until the mediated settlement agreement (called the “MSA”) is signed. Once signed, the Agreement is immediately binding and irrevocable.
8. Make sure you know where to go and please be punctual.
9. The process works only if given enough time. Don’t be concerned if it feels like a lot of time passes.
10. Make arrangements for babysitting and the like well in advance.
11. Your attorney will discuss with you the positives and negatives of bringing a friend or family member, and that calling such persons on the phone may not be allowed. Any individual who is harmful to the process may be asked to leave.
12. Review the issues in the case with your attorney. This discussion should be comprehensive so that you are certain that you and your file are mediation-ready.
13. Your attorney may discuss with you the need for preparing a first offer to be presented at mediation.
14. A review of the issues with your attorney will lead directly into a specific discussion of the strengths and weaknesses of your case. Your attorney will include factual and legal weaknesses.
15. Your attorney will likely provide you with a range of outcomes. You will be able to gather perspective in your case when you see the distance between Best-Case Scenario and Worst-Case Scenario.

16. Expect a discussion about attorney's fees, expenses and time to trial when considering the strength/weakness analysis and discussing possible outcomes.
17. Share with your attorney what your secret expectations, fears, and needs are. This problem often comes up the first time in mediation and should be fleshed out in advance.
18. Your attorney may ask you to evaluate what the other side expects, fears, and needs.
19. Here are some of the more obvious negotiating techniques:
 - a. "Either/or" offers. Sometimes these are hard to evaluate. Usually these offers contain hidden traps and hidden jewels. The format of this type of offer can be ignored if necessary.
 - b. The "high offer" offer. Your attorney can recognize an offer that is totally unreasonable and not to be alarmed by same.
 - c. No offer. Don't panic. This is probably going to be the mediator's problem. Despite all wisdom to the contrary, it sometimes becomes necessary to bid against yourself.
 - d. The walk-out. It happens. Do not let this take you by surprise. The mediator will attempt to control this and there may be courthouse remedies if the other side's behavior is extreme.
20. You should bring all updated information relative to your case. For example, in a divorce you need to bring updated bank account statements and other updated financial records such as credit cards and retirement accounts (there is a benefit to having last minute printouts from the internet of financial information).
21. Similarly, bring copies of property deeds, mortgage statements, and titles to vehicles and other titled assets (tractors, boats, etc.) or other ownership type documents relative to your case.
22. Your attorney may prefer the "trunk rule" of bringing all relevant documents to the mediation with those documents to be left in the trunk of your car so that if those documents are needed, they will be accessible at the mediation.
23. You will be called upon to carefully read the Mediated Settlement Agreement because this agreement, if signed, is immediately binding and is irrevocable.
24. The act of reducing the verbal "agreement" to writing is a vitally important aspect of the mediation and will take time. This is the all-important road map for the final judgment.

25. The MSA is not the final document in your case and the MSA is a guideline. After the MSA is signed, there will be additional documents needed before the case is concluded. In divorce cases this may include: Final Decree of Divorce, Agreement Incident to Divorce, Employers Order to Withhold, Special Warranty Deed, Deed of Trust to Secure Assumption, etc.
26. There is a fee to the mediator which is set and paid in advance. An invoice will be sent whereby you (or your attorney if the attorney holds your fund for that purpose) can pay online or by check. Payment is due from each side at least **14** days prior to your mediation session.
27. If the mediation goes long than scheduled (4 hours for ½ day, 8 hours for full day) there will be an additional hourly charge.