



**ARBITRATION & MEDIATION SERVICES**

## **CONFIDENTIAL MEDIATION SUBMISSIONS**

**Nancy F. Lesser**

Each side's mediation submission should address, at a minimum, the topics outlined below.

I typically encourage the parties to agree to share non-confidential portions of their submissions. In this way, the parties are better educated regarding the relevant factual and legal issues, and this helps move the mediation session along. Of course, many of the following questions involve confidential information which I do not expect you will share with the other side. This topic will be further discussed in our preliminary call.

**THESE SUBMISSIONS WILL NOT BE SHARED BY MY OFFICE WITH ANY PARTY. IF THE PARTIES AGREE TO SHARE PORTIONS OF THE SUBMISSIONS, THAT WILL BE ACCOMPLISHED DIRECTLY BETWEEN THE PARTIES.**

1. A summary of the facts of the case, including a chronology of critical dates. **I would appreciate not only a narrative account of events, but a key date chronology attached as an exhibit.**
2. Please also attach the important documents in the case, such as contract documents, key correspondence, etc.
3. If there has been deposition testimony, please attach those excerpts most critical to the case.
4. Please discuss the present posture of the case, including any pending motions. Please provide copies of any pending dispositive motions and/or court decisions on dispositive issues.

5. A discussion of the governing law, with citations to important cases upon which either side may rely. **Please** provide these in PDF format electronically via file transfer or on USB drive, I do not need hard copies.
6. A candid analysis of the strengths and weaknesses of your case.
7. Your equally candid view of the strengths and weaknesses of the other party's case.
8. A discussion and evaluation of the range of potentially recoverable damages.
9. The history of any prior settlement efforts. Please attach any correspondence regarding settlement or the case between the parties or counsel.
10. Address whether there is a carrier involved or potentially involved in the case, including carrier's name, the name of the representative who will be attending, if applicable and if known, and any issues surrounding coverage and/or carrier participation in the mediation.
11. Any particularly sensitive issues on either side that may impact the mediation;
12. Suggested approaches to resolution you believe I, as the mediator, should pursue;
13. The identity and title of all participants attending the mediation.

Typically, mediation submissions run between 20-25 pages double-spaced. However, every case is different and so I do not have a required page limitation. Please consider what I will need to know and understand in order to be effective in this matter.