

10 Common Advocacy Mistakes in Mediation

Failure to:

1. Use the mediator to help convene the mediation.
2. Provide updated information including earnings history pre-incident and post-incident, up-to date medical expenses and other special damages.
3. Counsel client about realistic verdicts and settlement ranges prior to mediation and prepare client for his/her role in mediation.
4. Take advantage of the joint session with a concise but complete presentation of claims/defenses.
5. Reduce adversarial tone during mediation. (Avoid phrases like “take it or leave it” or “this is a waste of time”.)
6. Focus on gains instead of losses.
7. Use the mediator as negotiating “partner”.
8. Secure attendance of person(s) with settlement authority.
9. Identify client’s short and long range business/personal interests.
10. Reduce mediated settlement to writing.

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