

Confidential Mediation Memorandum

Please submit a confidential mediation memorandum for the mediator's use in preparation. Please use this list as suggestion of basic information to include. Please feel free to include whatever you believe the mediator needs to understand the dispute. Please submit it 48 hours in advance (if possible) to: tim@mcinturfmediation.com.

1. Describe the nature of the case: if plaintiff: attach relevant live pleading.
2. Describe any equitable relief being sought.
3. With respect to the issue of liability.
 - a. Does the case involve an affirmative defense?
 - b. If yes, what affirmative defense: if defendant, attach relevant live pleading.
 - c. Describe the conduct of the plaintiff that might bar or diminish any recovery.
 - d. Describe the factual basis of any legal defenses that might bar or diminish any recovery by the plaintiff.
4. Describe Plaintiff's good facts.
5. Describe Defendant's good facts.
6. Describe any important disputed issues of fact.
7. Describe any imported disputed issues of law.
8. Describe Plaintiff's damage model.¹
9. Other special damages.
10. Punitive damages.
11. Experts and Specialization.
12. What was Plaintiff's last settlement demand that was actually communicated to Defendant? what was Defendant's last settlement offer, if any?
13. Describe any relevant background of previous settlement discussions.
14. Describe any other relevant information and/or pending motions.

¹ If this is a personal injury case, please include the following:

- a. Nature and extent of the injuries.
- b. Permanent injuries being claimed.
- c. Future medical expenses.
- d. Loss of earnings to date: past and future.