

## Mediation Offices of Lisa Krakow

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## MEDIATION PROCEDURES

### INITIATING THE MEDIATION

Ms. Krakow's available mediation dates can be obtained by telephone or email inquiry. Mediations dates are booked on a first-come, first-served basis. When seeking to reserve a mediation, please be prepared to provide the following administrative information: (a) parties' names; (b) name, address and telephone for all counsel; (c) the parties' agreed upon arrangement regarding allocation of the mediation fee; and (d) the agreed upon location for the mediation.

### PRESENCE OF DECISIONMAKERS

One of the most critical ingredients of a successful mediation is the presence of all decision-makers. Therefore, each side is expected to ensure that the principal parties and any person whose approval is needed for resolution is in attendance at the mediation. In those instances where there is relevant insurance coverage for a disputed claim, it is expected that defense counsel will arrange for the insurance representative to attend the mediation. In the event that is not feasible, the insurance representative should at a minimum be available by telephone to participate throughout the entire mediation.

### MEDIATION BRIEFS

Ms. Krakow prepares thoroughly for each mediation. To enable adequate preparation, each party is required to submit a mediation brief. Mediation briefs should be confidential, must be submitted by the deadline indicated in the confirmation letter (typically five days in advance of the mediation), and should include:

- the material facts giving rise to the litigation
- the legal claims asserted
- the procedural posture of the case
- the strengths of your client's positions
- any critical exhibits
- an analysis of damages
- any prior settlement negotiations, and any other information counsel believes would be helpful to know in advance of the mediation (e.g., pressure points that might create negotiating leverage)

When citing case law in a mediation brief, substantive parentheticals are appreciated, preferably quoting the pertinent language.

### AT THE MEDIATION

In the majority of cases, Ms. Krakow does not hold a joint session, although the parties are often convened together briefly at the outset of the day to review expectations, i.e., of both the mediator and the participants. If you strongly believe that a joint session would be critical to the mediation's success, please contact Ms. Krakow in advance to discuss the matter. Other than the occasional joint session, the day of mediation is comprised of a series of alternating private caucuses with the mediator and each party. In addition, it is not unusual for Ms. Krakow to meet with an attorney outside the presence of her or his client.

### CONFIDENTIALITY

All statements made at mediation are treated as confidential settlement discussions. At the outset of the mediation, participants will be asked to sign an agreement attesting to the confidentiality of all information disclosed at the mediation.