

Top Tips for Mediation Joint Meetings

It's natural during a dispute, for parties to want to run away from a joint meeting or avoid coming face to face with their opponent. If lawyers are involved, they may also be reluctant for their clients to undertake a joint meeting. However, repeat feedback from mediations show that some of the best progress is made following a joint meeting.

Whilst it isn't compulsory, a joint meeting can take place at any time during the mediation process and involve all or some of the representatives from either side. So, if invited to a joint meeting at a mediation, how do you prepare?

1. Be prepared to listen

If your case does not settle, it could end up in front of a Judge. Rather than focusing upon your case, during the joint meeting be prepared to listen. Listen as a Judge or neutral party may listen and understand the information being presented. This can allow you to gain a different perspective into how others may perceive your claim. It can also expose strengths and weaknesses previously unheard and, you can gauge the commitment to the issues being presented.

The mediator will encourage the parties to listen respectfully and quietly – try to do so as you will have your say. Listening and observing gives you information on how those present may perform and be convincing or otherwise in Court.

2. Commit to the mediation

This might seem obvious, but it is helpful to highlight at the outset of your opportunity to speak that you have committed time to the mediation process and seek a resolution to the dispute that day. This positive commitment towards settlement can set the tone for negotiations.

3. Don't just talk about your legal position, what has the dispute meant?

It is probably realistic to assume that arguing about your legal entitlement hasn't enabled you to settle the dispute so far. Therefore regurgitating the legal position alone is unlikely to achieve a different outcome. Explaining the background and impact from a very practical point of view gives context to the legal position. It also means that you are heard and your side of the story is not lost.

Do not be put off from explaining what the dispute has meant to you personally and professionally. It might be helpful to write out notes to read through or refer to, although looking up into the eyes of the other side is a must! I was present at a mediation in which one party looked down all the time during this session. They were not prepared to meet the eyes of their opponent and as a result it appeared they were less than confident about their case. Hold your head up and show that you are prepared to engage to settle the dispute.

4. Any missing information?

During the course of the joint session, if there are any areas that you didn't understand or would like to question, it is your opportunity to ask your opponent. Also bring all your paperwork and supporting information and copies to handover and, if other people or parties hold information that may be helpful, make sure that you have contact details for them and that they are aware you may need to call on them during the day.

5. Direct your statements to your opponent

It can be tempting during a joint meeting to look and refer directly to the mediator. However, the mediator is there to facilitate and therefore unless directed otherwise, any statement or discussion points you make should be directed to your opponent.

6. Listen to the mediator

The mediator will guide you as to where to sit at the joint meeting and also when the meeting should close. If you are uncomfortable during the session or would welcome taking a break and the mediator has not stopped the process, ask to revert back to private meetings and draw the joint session to a close.

7. Expressions of emotion

Disputes are personal even when representing a company. There is an investment in time, energy and emotion within the issues. Therefore expressing frustration, anger and sadness is very natural in a joint meeting and can assist all present to understand your perspective.

8. Exchange Information

A joint meeting is a great opportunity to pick up on any issues or areas that are unclear regarding the dispute. Identify these key points beforehand and be prepared to explain your position or ask questions. A carefully posed question asked respectfully in a neutral manner “I would like to understand more about.....what/how/why...” to explore the issues can help support or expose areas that require further explanation, evidence or agreement.

The mediator is present throughout to manage the process and facilitate all communication. If it becomes evident that the meeting is becoming unproductive, the mediator will call a halt to the session.

9. Make the most of the time

This is your day. Your opportunity to find a solution and walk away with the weight off your shoulders and the dispute behind you. Be prepared.

For further information about mediation or to discuss your

strategy in resolving a dispute, please contact:

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