DiCello Levitt Gutzler/Carver Financial 34th Annual CLE

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VORYS

Higher standards make better lawyers.®

"The only problem is that our system has been so sophisticated that it is too expensive, too delayed, too unwieldy and in many cases too unpredictable."

Chief Justice Earl Warren, 1954

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Mediation

Mediation is a **process** in which an **impartial** third party assists disputants in finding a **mutually acceptable** solution to their dispute.

Mediation is both **voluntary** and **confidential**.

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Factors Favoring Mediation

*Replace uncertainty with certainty.
*No need to establish precedent.
*Need to avoid publicity or need for confidentiality or privacy.
*Desire for speedy resolution; need to avoid delay.
*Need to preserve continuing relationship.
*Recognition that emotions or hostiles may bar a settlement.
*Desire to minimize risk of imposed outcome.
*Need to reduce high cost of litigation.
*Ability to choose a mediator.
*Convenient scheduling.

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Role of Mediator

Manages the Process

*Keeper of ground rules
*Allows parties to decide
*Maintains impartiality

Facilitates Communication

*Keeper of ground rules
*Allows parties to decide
*Maintains impartiality

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Styles of Mediation

*Evaluative
- Mediator evaluates the case
- May make recommendations

*Transformative
- Reflection/Summarize
- Not agreement focused

*Facilitative
- Widely used/accepted
- 3rd party neutral

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CONFIDENTIALITY, PRIVILEDGE and DISCLOSURE

*CONFIDENTIALITY

ORC 2710.07

*Privilege ORC 2710.03

Applies to Parties, Mediator and Non-Parties

*Mediator non-disclosure ORC 2710.06

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Common Emotions

*Survival

*Fear

*Greed

*Pride

*Revenge

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5 P's

Proper
Preparation
Prevents
Poor
Performance

FOR ATTORNEYS, ADULTS AND KIDS

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