

## Judicate West (JW) Mediators Best Practices Guide

Our mediators are not expected or required to follow any one style format or approach. This guide is what Judicate West recommends to our Mediators as the practices that we have found are consistent with our ability to deliver *results beyond dispute*. We recognize that each case has its own unique needs. We also recognize that Mediators each have their own unique styles, however all are dedicated to procedural fairness and maintaining their neutrality in facilitating communications in exploring these needs. All utilize their experience and creative problem solving skills in order to focus the parties on their true interests or goals while guiding them to full, global resolution.

These practices are considered a guide to manage the expectations of all participants in a JW mediation. Upon recognition of any ethical concerns or potential conflicts of interest, Mediators are expected to seek counsel from experienced colleagues and /or JW senior management before proceeding with the mediation.

This guide does not place any requirements on our Mediators not already required by applicable state or local laws that may apply to mediation.

1. Mediators should be true to the mediation process at all times. No person or issue should ever come between the Mediator and the process.
2. Mediators are expected to maintain their knowledge of the process and always continue to improve their skills and abilities to serve in this capacity.
3. Mediators are encouraged to disclose prior to the date of the first mediation session, either verbally or in writing, anything other than case history (which is not required by code for mediations) that may reasonably cause a person aware of the facts to entertain doubt about the Mediators neutrality for this matter.
4. Mediators should be well prepared and competent to handle any assignment accepted. In reviewing the parties' submitted materials, if the Mediator does not feel they are a good fit for the matter or are physically or mentally not up for the challenge, they will refer the matter to JW management to recommend a suitable replacement.
5. Mediators should protect and thoroughly explain the confidentiality and voluntary nature of the process. Confidential information is forbidden by law to be shared without permission of all parties. No party(ies) should ever be *forced* into settlement with the Mediator participating.
6. Mediators should make certain all parties understand the process and the role of the Mediator by clearly stating that they are not serving as a lawyer or judge and not functioning in a capacity to give legal advice. Mediators should, however, assist the parties in evaluating issues, considering hypotheticals, and serving as "devil's advocate" when appropriate.

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7. Mediators should conduct themselves in an impartial manner at all times. If a conflict of interest should arise or a perceived substantive or procedural bias appears to undermine the process, the Mediator should not hesitate to discuss with counsel whether to withdraw.
8. Mediators in concluding the successful mediation should encourage the parties to make certain that the terms of the settlement are documented, that the terms comply with those mutually agreed upon, and that they are accurately set forth in the final settlement memorandum. Mediators should assist the parties in resolving issues that may arise during this process. Mediators should appreciate that their job is not done until after the final stipulation for settlement has been signed by all parties. For cases that do not reach a settlement, Mediators should explain that the matter is concluding for the day, confirm the status of the negotiation, and what is needed from the parties, in order to continue progressing toward global resolution.
9. Mediators should not accept any gratuity that could reasonably be construed as attempting to influence, gain favor or impact the integrity of a past or future mediation.
10. Mediators' fees should be limited to reserved time for the mediation and preparation time spent working exclusively on that matter. No miscellaneous fees should be assessed for travel, phone bills, meals, or copies, etc. unless agreed in advance with the parties.