

Guide for Written Submissions

The below may assist in formulating your position statement and selecting other materials for pre-mediation review.

For all matters, whether or not in suit:

- Identification of parties, representatives and counsel who will be directly involved in the mediation discussions; confirmation of authority to settle the case.
- A brief recitation of the facts that gave rise to the present dispute.
- A summary of the parties' positions and a candid assessment of their respective strengths and weaknesses.
- Description of any sensitive issues that may influence any settlement negotiations. (This may be better addressed during a caucus, in person or via zoom.)
- Any insights you have regarding relationships between and among these parties, and whether you believe any particular approach is likely to be particularly useful or not useful.
- The history of any efforts to settle the case including any prior offers or demands.
- I will suggest potential creative solutions; if there are ones you have considered or eliminated from consideration, please describe so that we may advance that conversation efficiently.

Additionally, for matters in suit:

- The present procedural posture of the case, with special attention to recent filings, rulings or products of discovery that may influence (positively or otherwise) our ability to resolve the case.
- A summary of pivotal expert opinions/reports or other witness testimony/admissions.
- Jurisdictional considerations.
- Identification of critical dates/events upcoming.

Supporting Materials: Any materials you deem relevant to our work may be provided, including but not limited to documentation illuminating the above. Whatever you provide will be thoughtfully reviewed.

NOTE: All position statements are presumptively confidential. However, I urge you to proactively consider whether the statement or any portion of it can be shared with your opposition, either directly or through my office. The more your opposition understands about your position, the more likely the parties are to align their expectations and reach a mutually tolerable outcome.

