

Mediation Advocacy

The Mediator's perspective

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What would the parties expect from the mediation ?

- Resolution of client's dispute by reaching a result that best suit client's interest and needs
- Narrow down the differences between the parties
- Not just another round of negotiation

Work with the Mediator

- Work closely with the mediator
- At all stages of the mediation
- Maximise the power of mediation

Representation Plan

- **Facilitative mediation vs. Evaluative mediation**
- **Interest based strategy vs. Competitive strategy**
- **Problem solving negotiation vs. Positional bargaining**

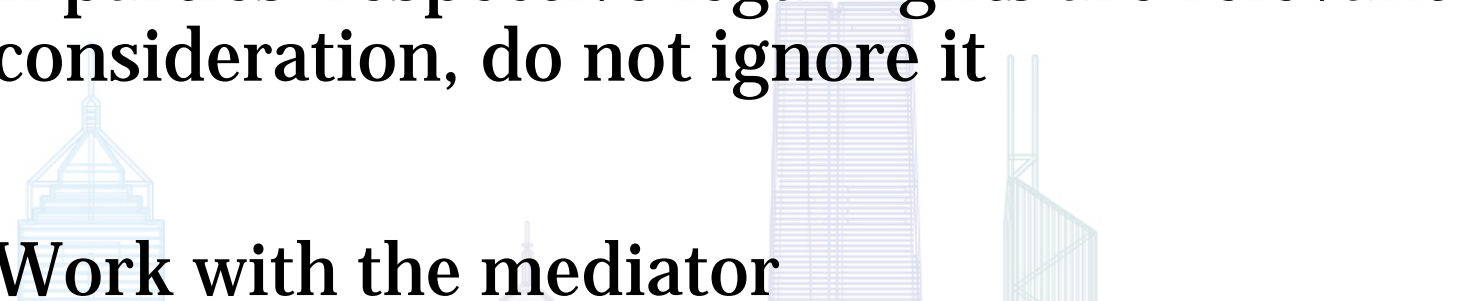
Preparation

- Who shall attend the mediation?
- Who shall speak at the mediation?
- What does your client wish to achieve?
- Is there a realistic assessment of your client's case?
- Have you maintained a mutual understanding with the mediator on the process and issues that are important to client?

Process

- Written opening statement
- Importance of joint session
- Use caucus flexibly
- Work with the mediator
- Engage the other party

What to discuss

- Mediation is not a forum for legal argument
 - If parties' respective legal rights are relevant consideration, do not ignore it
 - Work with the mediator
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What to discuss

- Mediation is not a therapeutic session
- If emotion or relationship is an issue for the parties, do not bury it
- Work with the mediator

Your audience

- The other party
- The other party's legal representative
- The mediator



Effective mediation advocacy

- Enlist the mediator's assistance
- Engage the other team
- Enhance client's opportunity to achieve a result that meets his needs and interest



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LEGAL WEEK HONG KONG

Thank you

