

***What to
Expect
When You're
Expecting
(to mediate)***

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This session focuses on Private Circuit Civil Dispute Resolution. In this session we will cover objectives and tactics for achieving the Goal.


What's the Goal?

Value!

Bring value=
Distinguish yourself =
Greater demand for your
services



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- 
1. Skillset of a successful mediator
 2. Marketing and Building a successful DR practice
 3. Common issues you may encounter in circuit civil cases (*See your materials*)



Marketing and Building a successful DR practice

1. Full-Time Job
2. Technology Skills
3. What's your most important case?



1. Full-Time Job

- ✓ **Until you are as busy as you want to be, your full-time job is getting cases**
- ✓ **Call everyone you have ever litigated against**
- ✓ **Find firms that litigate and contact them**
- ✓ **Go to Bar events and sponsor events**
- ✓ **ADR Committees**

2. Technology

✓ “I’m **NOT** new here”

✓ **Basic Zoom**

✓ **E-Signatures**

3. The most important case you have?

- ✓ **Treat the mediation as if it was the one that will determine your entire career**
- ✓ **When a case impasses you are not done...**

Call Ahead and Follow-up

- ✓ **Do I charge?**
- ✓ **Who do I call?**
- ✓ **What about keeping notes?**

Skillset of a successful mediator

1. Ability to Explore
Issues and Challenge
Assumptions

2. People Skills

3. Persistence

4. Bias Elimination



1. How do you Explore Issues and Challenge Assumptions?

✓ Be more than a numbers runner

RULE: “Rule 10.220 Mediator’s Role The role of the mediator **MEAC:** *A mediator may discuss and “explore settlement alternatives” with the parties as long as the activities by which the mediator does so is consistent with the Rules for Certified and Court-Appointed Mediators.*

✓ Think ahead and design your process—mediation starts when the mediation gets set

✓ Mediator Ethics and Rules of Conduct/MEAC Cheat Sheet

✓ Legal Knowledge (see next slide)

Legal Knowledge

- 1. Rules of Evidence**
- 2. Law specific to the case**
- 3. Procedural status of the case**

Why? So you can explore possible rulings and outcomes at trial and then explore equal or better outcomes from a settlement.

2. People Skills—What is emotional intelligence?

- ✓ Ability to be in touch with one's own emotions and the emotions of others

2. How to use Emotional Intelligence to Build Rapport?

1. How do you connect with someone you just met
 - Introduce yourself
 - Ask about family, job and interests
 - Find something in common
2. Don't just coldly jump into the negotiations. Take a few minutes to get a sense of the folks in the room - is the atmosphere relaxed or tense, are the parties congenial or hostile toward each other.
3. Be observant for non-verbal cues.
4. Smile - suggests trustworthiness and makes folks feel better. Studies suggest that smiling decreases nervousness and increases attentional flexibility.

2. Cultural Competence

Understand, be aware of and respect parties' cultural customs.

The mediator works for the parties and should be prepared to engage with them on *their* terms.

Pro-Tip: *CultureCrossing.net has a great cheat sheet for dozens of cultures and will help you avoid a cultural faux pas.*

3. Persistence

- Keep them at the table until you have exhausted every avenue or have a settlement
- When you impasse you are not done!

4. Bias

- Confirmation
- Anchoring
- Cultural/implicit
- In-Group
- Dunning-Kruger
- Race and gender pain bias

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Questions?

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