

FOOD FOR THOUGHT

There may be information that you do not want to reveal to the other side, but that you will reveal to the mediator in a caucus, or a private discussion. Both sides have the ability to request a caucus with the mediator, or the mediator can request one independently. If the mediator caucuses with one side, a caucus will likely be conducted with the other side as well.

Understanding the mediation process and knowing what to expect prior to going through the process is very helpful. Be aware that the other party may say things to "press your hot buttons," while their attorney watches for reaction to gauge how you might react on the witness stand, should the case not settle. You should discuss the entire mediation process with your attorney: including reviewing and signing the agreement to mediate; who will give the opening statement, you or your attorney; who will be the primary speaker; and what information to withhold or to disclose only to the mediator in a caucus. If you will be giving the opening statement, discuss the points to be made and practice the talking points.

Remember, the mediator is to remain neutral and has no stake in the outcome of the case. If the mediator does or says anything that might be characterized as biased or showing favor to the other side, you can ask for a caucus to discuss it so that you and your attorney can decide how to proceed. Also remember that the mediator may play the role of devil's advocate during the session. As a result, your assessment of the mediator's conduct should consider the use of this technique.

Once you understand the proceeding and know what to expect, taking into consideration all that's been discussed above, you should be able to make an intelligent determination as to whether mediation is right for you.

With this decision made you will be ready to engage in a "facilitated negotiation."

Killer whales, or Orcas, as they are more commonly known are the world's largest, brawniest dolphins. With enormous reserves of speed and strength, one of the biggest brains in existence (four times the weight of a human's) and no natural enemies as adults, they have staked a claim as the supreme predators across 71 percent of the planet.

Researchers have found that there may be no tighter or longer lasting relationships among large animals than those that bind killer whale families. Researchers call these basic social units matriline because they are led by the oldest female or matriarch. A typical pod, as groups are called, consists of several generations in a single matriline or closely related matriline that travel together.

Pods with common ancestors and dialects are considered a clan, with clans that regularly associate and share the same range form a distinct population, known as a community. Within communities, aggression is virtually unknown. In fact, different communities largely ignore each other on occasions when their travels overlap. That such powerful, predatory mammals have found ways to live together in seeming harmony is amazing!!!!

We humans can learn a lot from killer whales.

SGLI: True or False

1. SGLI won't pay if I die while wearing privately purchased body armor. **False.** SGLI claims are paid regardless of any issues of body armor, either privately purchased or military issued.
2. SGLI won't pay if I die in a motor vehicle or airplane accident and wasn't wearing a seat belt. **False.** SGLI claims are paid regardless of whether the member was or was not wearing a seatbelt.
3. SGLI won't pay if I die in a motorcycle accident and was not wearing a helmet. **False.** Your SGLI proceeds will be paid to your beneficiary(ies) regardless of whether you were or were not wearing a helmet.
4. I'm a Reservist/National Guardsman and I heard that my SGLI coverage is only good while I'm at drill. **False.** If you are a Reservist/National Guardsman and have been assigned to a unit in which you are scheduled to perform at least 12 periods of inactive duty training that is credible for retirement purposes, full-time SGLI coverage is effective 365 days of the year. You are also covered for 120 days following separation or release from duty.

5. SGLI won't pay if I die as a result of a terrorist attack. **False.** Your SGLI proceeds will be paid to your beneficiary(ies) if you die in a terrorist attack.
6. There are several war or terrorism exclusions that would prevent payment of my SGLI insurance to my beneficiary(ies). **False.** There are no exclusions that apply to SGLI coverage.

How can SGLI coverage be forfeited?

The coverage provided by the SGLI program will be forfeited only when an insured member is found guilty of mutiny, spying, or desertion, or refuses, because of conscientious objections, to perform service in the Armed Forces of the United States, or refuses to wear the uniform of such force.

No insurance shall be payable for death inflicted as a lawful punishment for a crime or for military or naval offense except when inflicted by an enemy of the United States.

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IS MEDIATION RIGHT FOR YOU?

What is mediation? Mediation is a facilitated negotiation conducted by a neutral party. The neutral party, a person with no stake in the outcome of the dispute, facilitates communication between the disputing parties. The facilitated dialogue, among other things, helps each party see the dispute from the other side's perspective.

Monetary and Non-monetary Considerations. While mediation may be a less expensive option than litigation, there are monetary and non-monetary considerations to keep in mind. On the one hand litigation costs includes discovery, court reporters, transcripts, expert fees, exhibit preparations and other costs associated with trial and trial preparation, mediation cost may only include the mediator and attorney's fees. Non-monetary considerations include: 1) how have you been affected by the dispute; 2) any privacy concerns; 3) interaction between the parties after the dispute is resolved; and 3) how effective would you be as a witness in court or in mediation.

Because litigation can be a stressful and protracted process, your emotional state should weigh heavily in deciding whether to mediate or litigate. Some questions to consider are: Are you calm and content, able to keep your mind and focus on work and family? Or are you agitated, nervous and angry? Are you distracted at work or at home and unable to adequately function? How much time do you have available to you that will allow you to be absent from work to attend various case related meetings, e.g., depositions, psychological or medical evaluations, settlement conference, motion(s) hearings and the trial?

Secondly, if you are concerned about privacy, consider the fact that litigation is an open process with public access to the trial and to court records, while mediation is a confidential process. In mediation, the mediator is not permitted to discuss with anyone what is said or done during the mediation session, with a few exceptions. The exceptions are in cases of abuse, imminent threat of harm, and defense against allegations of misconduct.

Prior to the start of the mediation, the mediator may ask both parties to sign a confidentiality agreement which prohibits them from calling the mediator to testify as a witness in the event that the dispute is not resolved at mediation and proceeds to trial.

Who will mediate your dispute? If the case is court-referred to mediation, the court selects your mediator from its roster of mediators who have applied and been found to meet specific qualifications. If the parties agree to mediation prior to filing pleadings, the parties can select their own mediator.

When should you mediate? If you mediate prior to filing suit, you may save time and money, by avoiding filing fees and, possibly, discovery costs and expert witness fees. Additionally, if the case settles, more than likely you and the other side may be more satisfied with the outcome, because the matter was resolved expeditiously. In addition to that, both parties would receive the satisfaction of knowing they had a say in creating the resolution. Other considerations are when should the mediation be scheduled and who should attend. Who is most knowledgeable about the dispute? Who has the authority to settle the dispute? Will there be someone available to provide emotional support, even if that person will not participate in the session?

Even though you may have a list of witnesses, the mediator may choose to limit the number of participants, or the opposing side may have objections or concerns. Therefore, it is important for you to evaluate the importance of each witnesses testimony, so that you can convince the mediator to allow the essential witnesses to be present. Note that any additional people brought into a mediation session will have to sign the confidentiality agreement.

How do you prepare for the mediation? Once you have decided to mediate, you should begin to prepare. Preparation for mediation may be similar to trial preparation. Of most importance is discussing your goal; what do you want to gain from the mediation and the resolution of the case. Consider monetary, as well as non-monetary elements. Mediation provides fertile ground for creative and sometimes expansive solutions. Therefore, you should decide beforehand what is the minimum and the maximum that you are willing to accept. You should also consider what information you want to remain confidential and when during the mediation session certain information should be disclosed.



THE LAUGHABLE ESQUIRE

Q: Doctor, before you performed the autopsy, did you check for a pulse? **A:** No. **Q:** Did you check for blood pressure? **A:** No. **Q:** So, then it is possible that the patient was alive when you began the autopsy?

A: No. **Q:** How can you be so sure, Doctor? **A:** Because his brain was sitting on my desk in a jar. **Q:** But could the patient have still been alive nevertheless? **A:** It is possible that he could have been alive & practicing law!