

THE ABOTA MEDIATING MINDSET: Plaintiff and Defense Perspectives

Effectively Utilizing Your Mediator to Obtain Best Terms At Mediation

Mark Cunningham - ABOTA for Plaintiff;

Steve Masaluski - ABOTA for Defense;

David M. Karen, ABOTA, Judicate West Mediator and Moderator.

MCLE Materials:

Wrongway Mediation – Robert Tessier (JW)

10 Steps in Mediating – Joseph Lovretovich (Signature)

2023-24 Cal Mediation Arbitration Recap – Marc Alexander (ARC)

Ray Summary (JW Research)

Case Discussion: *Suarez v. Superior Court (Rudolph & Sletten, Inc.)*

Q&A with heavy hitters: Balancing aggressive negotiation tactics with knowing when to invite mediator direction.

Goal: Getting to the BTA - Best Terms Available

Defense: Get a Real Demand

Plaintiff: Get Maximum Offer

Rules: Don't be offended; Respond

Working Backwards

Ancillary (dealbreaker) terms - first.

Examples: Confidentiality; non-disparagement

Client Control - Authority to Settle from P

Negotiation Concepts

Opening Demands/Offers

Balancing Moves

Bracketing

Transparency with Mediator Prevails