

Case: \_\_\_\_\_

Mediation Date: \_\_\_\_\_

**Option 1: Negotiated Resolution**

**Option 2: Mediated Resolution**

**Option 3: Litigation / Judicial Outcome**

**POSITIVE CONSEQUENCES**

<p><b>Economic:</b>            1) No more attorney's fees            2) Cap on liability OR receive \$\$ today            3)            4)            5)</p>	<p><b>Economic:</b>            1) No attorney's fees + costs for trial &amp; trial prep            2) Cap on liability OR receive \$\$ today            3)            4)            5)</p>	<p><b>Economic:</b>            1) May win and get \$\$\$\$ judgment OR may win and not have to pay anything            2)            3)            4)</p>
<p><b>Social:</b>            1) Private            2) Socially acceptable alternative to litigation            3) Avoids stress &amp; disruption of business / personal calendar caused by going to trial            4)            5)</p>	<p><b>Social:</b>            1) Private            2) Socially acceptable alternative to litigation            3) Avoids stress &amp; disruption of business / personal calendar caused by going to trial            4)            5)</p>	<p><b>Social:</b>            1) Public – send a message; set a good precedent if you win            2) Consistent with company policy / values            3)            4)            5)</p>
<p><b>Psychological:</b>            1) Closure today            2) Control over outcome, timing, terms            3) Allows parties to move forward            4)            5)</p>	<p><b>Psychological:</b>            1) Closure today            2) Control over outcome, timing, terms            3) Allows parties to move forward            4)            5)</p>	<p><b>Psychological:</b>            1) May win and get \$\$\$\$ judgment OR may win and not have to pay anything            2) Champion of a cause / gladiator fighting for rights            3)            4)</p>
<p><b>Moral:</b>            1) Make peace not war            2) Don't make mountain out of mole hill            3)            4)            5)</p>	<p><b>Moral:</b>            1) Make peace not war            2) Don't make mountain out of mole hill            3)            4)            5)</p>	<p><b>Moral:</b>            1) Stand up for rights or principals            2) Promote company policy / values            3)            4)            5)</p>

Case: \_\_\_\_\_

Mediation Date: \_\_\_\_\_

Option 1: Negotiate Resolution	Option 2: Mediated Resolution	Option 3: Litigation / Judicial Outcome
<b>NEGATIVE CONSEQUENCES</b>		
<p><b>Economic:</b></p> <ul style="list-style-type: none"> <li>1) May pay more than you would if you successfully defend OR may receive less than if you successfully prosecute</li> <li>2)</li> <li>3)</li> <li>4)</li> <li>5)</li> </ul>	<p><b>Economic:</b></p> <ul style="list-style-type: none"> <li>1) Pay mediator + pay attorney</li> <li>2)</li> <li>3)</li> <li>4)</li> <li>5)</li> </ul>	<p><b>Economic:</b></p> <ul style="list-style-type: none"> <li>1) Will spend tens of thousands of dollars preparing for &amp; taking to trial. Will spend more than would be spent on negotiation or mediation</li> <li>2) Judgment = piece of paper; does not guaranty recovery; may not be in amount prayed / demanded; may be less than litigation expenses</li> <li>3) No attorney's fees recovery</li> <li>4) No opportunity for \$\$ recovery till several years in the future</li> <li>5) Ability to recover against defendants is an unknown</li> <li>6) May invite further attorney's fees &amp; costs due to appeal proceedings</li> </ul>
<p><b>Social:</b></p> <ul style="list-style-type: none"> <li>1) Lose face; feels like concession even though stated as a compromise of disputed claims with no admission</li> <li>2)</li> <li>3)</li> <li>4)</li> </ul>	<p><b>Social:</b></p> <ul style="list-style-type: none"> <li>1) Lose face; feels like concession even though stated as a compromise of disputed claims with no admission</li> <li>2)</li> <li>3)</li> <li>4)</li> </ul>	<p><b>Social:</b></p> <ul style="list-style-type: none"> <li>1) Public – set a bad precedent if you lose</li> <li>2) Takes time away from work</li> <li>3) Disrupts work &amp; social plans / calendar</li> <li>4)</li> <li>5)</li> </ul>
<p><b>Psychological:</b></p> <ul style="list-style-type: none"> <li>1) Lost opportunity to vindicate position</li> <li>2) Cowardly / avoidance</li> <li>3)</li> <li>4)</li> <li>5)</li> </ul>	<p><b>Psychological:</b></p> <ul style="list-style-type: none"> <li>1) Lost opportunity to vindicate position</li> <li>2) Cowardly / avoidance</li> <li>3)</li> <li>4)</li> <li>5)</li> </ul>	<p><b>Psychological:</b></p> <ul style="list-style-type: none"> <li>1) No control over outcome, timing, terms</li> <li>2) Uncertainty; cannot predict what judge or jury will do</li> <li>3) Open-ended; may stretch out to include an appeal</li> <li>4) Parties cannot move forward; focused on past events</li> <li>5) Stress of trial</li> <li>6)</li> </ul>
<p><b>Moral:</b></p> <ul style="list-style-type: none"> <li>1) Compromise values / don't stand up for rights or principals</li> <li>2)</li> <li>3)</li> <li>4)</li> </ul>	<p><b>Moral:</b></p> <ul style="list-style-type: none"> <li>1) Compromise values / don't stand up for rights or principals</li> <li>2)</li> <li>3)</li> <li>4)</li> </ul>	<p><b>Moral:</b></p> <ul style="list-style-type: none"> <li>1) Bullying tactic; want more than you're entitled to OR want to pay less than is reasonable</li> <li>2)</li> <li>3)</li> <li>4)</li> </ul>