

SELECTING CASES TO SEND TO MEDIATION

Mediation works because it (1) allows for a cost-effective, time-efficient mediation format and method of using the tool of ADR; (2) enables the settlement of a large volume of simpler cases; (3) utilizes a skilled mediator, who can work behind the scenes to assist in developing a settlement agreement.

Does your case have any of the following characteristics? If so, put a "check" in the appropriate spaces:

- 1. It has been at least 3 months since the parties discussed settlement, or the case is over 2 years old.
- 2. Your phone calls or letters to the other side go unanswered.
- 3. The other side is not furnishing you with the information that you need to evaluate the claim or to discuss settlement.
- 4. You or the other side are having "client control" problems: "I believe your settlement figure is in the ball park, but my client (or insured) will never accept it".
- 5. A lawsuit will soon be filed.
- 6. The case is in litigation, and a substantial round of discovery is approaching.
- 7. The case is in litigation and it is time to begin preparing to go to trial.
- 8. A case's settlement value is less than what it will cost you to take the case to trial (or to defend the claim).
- 9. Your negotiations have broken down, and you are going to incur a substantial amount in costs before the next round of negotiations would normally occur.
- 10. While the stated offers are far apart, your experience tells you that this case will settle.