

PRO FORMA 1ST EMAIL TO THE PARTIES' LEGAL REPRESENTATIVES

Dear /// & ///,

Thank you for asking me to mediate in this case.

I write following the [introductory telephone conversations we had] [v/m messages that I left for you both] earlier today.

Plainly it will be helpful to all of us, and the process, to have certain things confirmed early on and for me to suggest a pre-mediation preparation timetable. This I do below.

So as facilitate each of you when replying, and for ease of reference at 'all ends', please use the headings and numbering below. Hopefully, my suggested timetable can be agreed.

VENUE AND TIMING OF MEDIATION

1. My instructions are that the Mediation is to take place on //// at //// (//// offices);
2. I note that the commencement time is fixed for //// hours. Please have it in mind that initially I shall need to have a private session with each Party plus their advisers. I plan to get to //// offices by //// hours;
3. A minimum of two secure rooms (one large enough to accommodate seated at a table all those attending the Mediation including me) will be required. Three rooms might well though prove to be better given that I or the Parties' advisers may decide at some stage that a 'lawyer only' joint session might prove helpful to the process.
4. Liquid refreshments will need to be available throughout the day and if we are to work through lunch, which I recommend, sandwiches will need to be brought into each room;
5. It would be helpful if two flip charts and writing materials could be available for use, if required;
6. After hours printing and copying facilities may be required too.

PRE-MEDIATION PREPARATION

1. Ideally the two of you should agree upon what is to appear in one paginated mediation bundle rather than there being several bundles or worse still, a 'confetti like' array of papers produced on the mediation day;
2. One of you will need to agree to take on responsibility for preparing a hard copy before sending it to me at the address which appears below, **to arrive by no later than //// please. It would assist if I could also be sent an electronic copy** which will no doubt be password protected.
3. I recommend that the Parties' Position Statements are prepared and exchanged after the Mediation Bundle has been agreed, prepared and delivered. The former should be exchanged between you and copies sent to me as **Word documents, please**, by email;
4. As is usual for the Mediator to do, I shall want to conduct some private one to one post reading pre-mediation discussions with each of you. I suggest that we do so during the morning of //// at the times suggested below: recognising though that these may not be convenient to you in which case please email me immediately to say when you will be available on that day or possibly beforehand.

SUGGESTED TIMETABLE FOR YOU TO CONSIDER AND THEN AGREE ('AS IS', OR AMENDED)

On or before:

1. //// - Draft Mediation Agreement to be agreed via CEDR (top copies of the final versions will be brought by me to the Mediation for signing first thing on the day);
2. //// - Mediation Bundle to be agreed;

3. **AM ////** - Hard copy of the agreed Mediation Bundle to be received by me at the address shown below (as well as an electronic copy emailed to me) together with any other papers which the Parties want me to see (including any 'for my eyes only' papers, **SUCH TO BE MARKED SO AT THE HEAD OF THEM**);
4. **By 1600 hours on ////** – Position Statements to be exchanged between you by email and Word document copies emailed to me (again together with any statement intended 'for my eyes only' **AND AGAIN, SUCH TO BE MARKED SO AT THE HEAD OF IT**);
5. **On ////** - Me to telephone you //// at //// hours and you //// at //// to conduct my private one to one post reading pre-mediation discussions;
6. //// – The Mediation Day. Start time fixed for 1000 hours.

AUTHORITY TO SETTLE

1. Before and then again on the Mediation Day, I shall be asking the Parties and/or their legal representatives who it is that has authority to settle on their behalf and, if conditional or qualified in any way, whether that is the case (I need not though at that stage be told of the terms of any condition or qualification);
2. If any person not attending the Mediation may need to be called upon to provide an authority to settle or otherwise be consulted about a settlement offer before it is advanced or rejected, that person will need to be instructed to be available on the telephone during as well as **outside normal office hours** as mediations do not always conclude by say 1700 hours!

EXPLANATIONS/RE-ASSURANCES/APOLOGIES

1. Presently I do not know whether any are or might be required and if they are, what the Claimant's expectations are regarding how such should be proffered and by whom;
2. This is a matter that I strongly urge you to think about and liaise between the two of you well in advance of the Mediation should there be any likelihood of such a requirement.

ATTENDEES

Before the Mediation, both Parties will need notify //// at CEDR (////) who will be attending it, and in what capacity.

MY CONTACT DETAILS

1. See below please;
2. If telephoning it is usually best to call me on my mobile.

If you require elaboration or have any concerns, please do not hesitate to telephone me. All discussions that I have with you on a one to one basis will be private and remain confidential, unless agreed otherwise.

I look forward to working with you both and I shall of course do my very best to help the Parties reach a settlement.

Meanwhile please acknowledge receipt of this email.

Best wishes,

Kevin.

Kevin Smyth
Civil/Commercial CEDR Accredited Panel Mediator
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