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40th Annual Meeting of the Labor and Employment Law Section

Effective Tips and Strategies for Mediation

Friday, July 19, 2024
1:45 p.m. – 3:00 p.m.

Speakers:

Hon. William McCurine, Jr., Ret.

Kathryn B. Fox

Marina Fraigun

Conference Reference Materials

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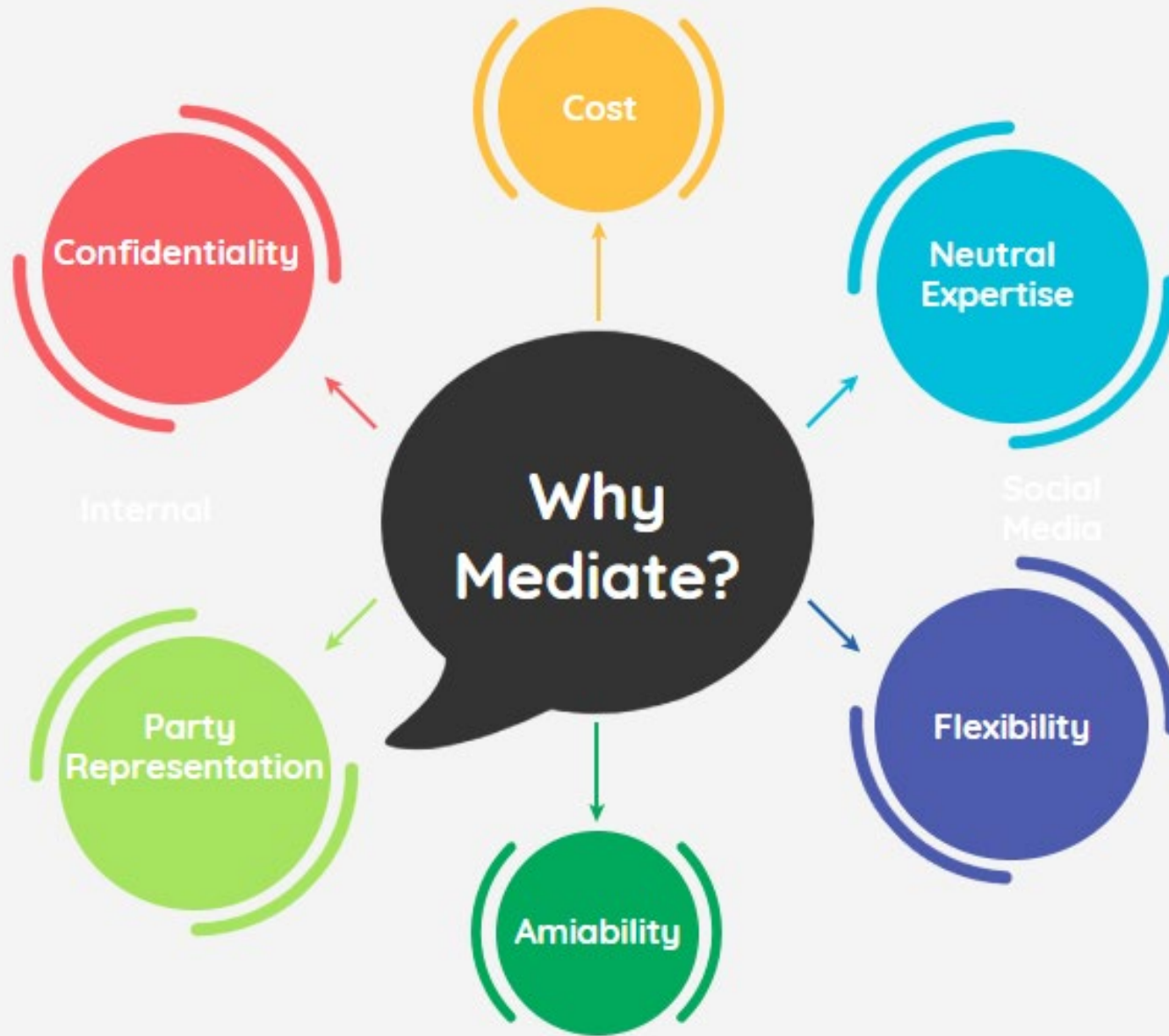
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Mediation: Effective Strategies for Resolution

Hon. William McCurine
Marina Fraigun
Kathryn Fox
July 19, 2024



Five Main Considerations for Mediation

1. Finding the Right Time to Mediate
2. Picking the Right Mediator
3. Preparing your Client for Mediation
4. Preparing your Case for Mediation
5. Attending Mediation



Finding the Right Time to Mediate

- Early mediation
- After some discovery
- Before a dispositive deposition or motion hearing
- Eve of trial



Picking the Right Mediator

- In-Person versus Remote
 - Emotional Stresses
 - Engendering Trust
 - Cultural differences
 - Empathy
 - Confidentiality concerns
 - Physical documents
- Retired Judge versus Attorney
- Cost Considerations
- Experience / Expertise with the Subject Matter



Preparing Your Client for Mediation

- Explain What to Expect
- Set Reasonable Expectations
- Client Attendance – in-person versus remote
- Client Participation

Preparing Your Case for Mediation

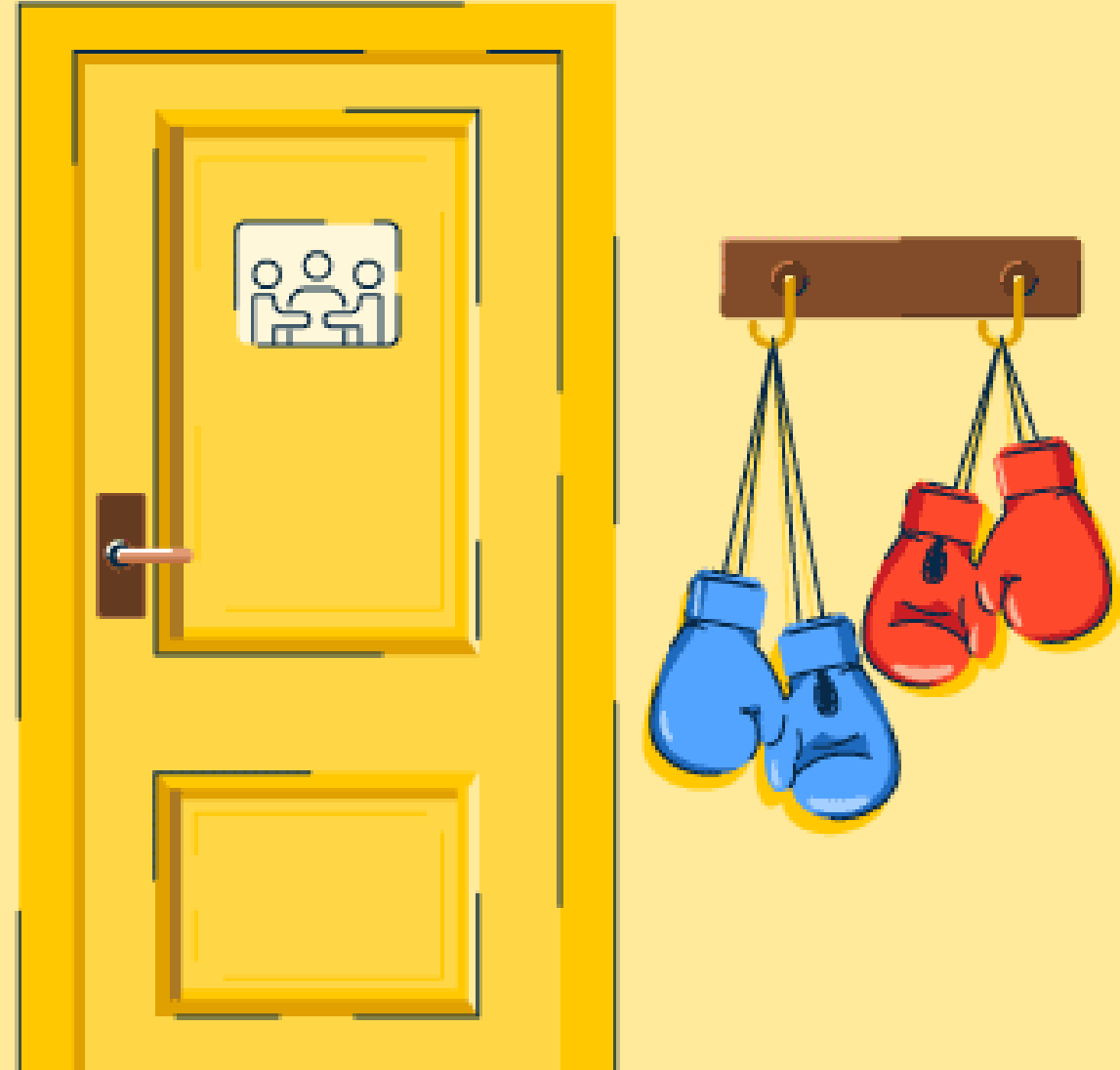
- What to Send to the Mediator:
 - Mediation Brief – Length?
 - Important Documents/Exhibits?
 - Operative Complaint?
- Exchanging Mediation Briefs
- Knowing the Strengths and Weaknesses of Your Case, and Valuing Them Appropriately
- Pre-Mediation Call with Mediator

The Goldilocks Rule



Attending Mediation

- Being Prepared to Address the Strengths and Weaknesses of Your Case
- Good Faith – Attend With the Goal of Seeking Resolution
- Knowing and Disclosing “Special Terms” Early
- Attorney-Only Meetings
- Joint Sessions



Additional Considerations

- Case Specific Considerations
 - Class Actions
 - PAGA
 - FEHA
- Mediator's Proposals
- "Walking Out"

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Questions?

Hon. William McCurine
Marina Fraigun
Kathryn Fox
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Marina Kats Fraigun is the founder of Fraigun Law Group. She is a Plaintiff's employment attorney. She has been practicing for over 26 years. She has been named as a Super Lawyer and selected as one of the Top 50 Women Lawyers in Southern California, Top 100 Lawyers in Southern California, and has earned the Martindale Hubbell AV Preeminent Rating. She is an aggressive employment attorney and has been called a "pit bull". Ms. Fraigun is also a passionate advocate and founder of Fraigun Law Group, she regularly mentors younger lawyers, has acted as a Judge pro tem, and judged moot court. Marina is happily married and is raising two teenage sons.