

Ross Hart's Co-Mediation Program for Complex Disputes

Los Angeles, CA – As our legal community is well aware, Ross R. Hart has been successfully mediating high-stakes and complex construction, construction defect, class action, subrogation and insurance coverage matters for over thirty years. Due to the high demand for his services, at this point in his career but for short term cancellations on his calendar, he is typically booked for over six months in advance.

Many disputes that come before Mr. Hart are ripe for settlement and can be resolved with pre-mediation briefing and one or two mediation sessions, however, the majority of cases are complex, multi-issue or multi-party matters that need several mediation days over the course of several months to resolve. The latter more complex cases typically require a series of mediation events in preparation for a final closing “money” day or days followed by a written mediator’s proposal to resolve the case. The preliminary events often include an initial mediation session with the parties to understand the dispute, and working with counsel to identify issues and obstacles to plan a dispute resolution timeline with a series of events that will serve as a critical path to a successful resolution. Depending upon the nature of the case, such events include, but are not limited to a) expert presentations, b) mediator facilitated expert meetings, c) mediator facilitated insurance coverage meetings, d) mediator facilitated allocation meetings among Plaintiff, main defendants and cross-defendants to discuss the merits of and defenses to allocations, risk transfer and settlement demands, e) discussion of the scope and timing of testing and the need for and scope of information exchange among the parties and f) telephonic and email communication to solve periodic problems that may arise among the parties and/or readiness in advance of the closing days.

In response to the increasing demand on his calendar, Mr. Hart adopted a Co-Mediation procedure¹ that has proven to be very successful for such complex cases. Over the last few years, Mr. Hart has co-mediated with several of his colleagues on the AMCC mediation panel who have significant experience mediating similar disputes and whose calendars are more flexible. Incorporating Co-Mediation to the resolution efforts of an appropriate case provides significant benefits to the parties in terms of both a) shortening the **time** from initiation of the mediation process to resolution of the dispute b) and lowering the **cost** of early mediation events. Co-Mediation allows the parties to get started with the mediation process much sooner versus having to wait several months for an opening or cancellation on Mr. Hart’s calendar which usually occurs on an uncertain date with very short notice. Further, Co-Mediators bill at lower rates than Mr. Hart and typically have more availability and flexibility in their calendars to work with the parties throughout the lengthy mediation process. In addition, such preparatory work of counsel, parties, carriers and experts with the Co-mediator ahead of time often leads to more successful and fewer closing “money” days.

“I have had great success using a Co-Mediator as a force multiplier on several complex, multi-issue and/or multi-party cases. The feedback from parties, carriers and counsel, while initially resistant to the Co-Mediation concept, just as they were with the idea of virtual mediation until Covid forced the issue, is that Co-Mediation works very well to make the mediation process more efficient and cost effective.” Ross R. Hart

¹ For background on the pros and cons of co-mediation, a good law review article available on the internet written by adjunct professor Keryn Foley is “To Co-Mediate or not to Co-Mediate—That is the Question” (Bond Law Review Volume 29, Issue 1, Article 7 (2017)).

Typical Mediation Program for Complex Disputes

- Mediation request is initiated by the parties.
- A final mediation date (or dates) is booked on Mr. Hart's calendar.
- Parties review CVs provided by Case Manager and select a Co-Mediator.
- An Initial virtual one to two-hour mediation session is scheduled with Mr. Hart, the Co-Mediator and Counsel.
- Counsel submits an initial summary statement of the case, issues to be mediated, unique concerns and any anticipated obstacles to resolution. These statements can either be confidential or shared among counsel as may be agreed upon by counsel.
- The initial virtual one to two-hour mediation session goes forward with Mr. Hart, the Co-Mediator, Counsel and at the discretion of counsel, parties and lead experts. The purpose of this initial meeting is to familiarize Mr. Hart and the Co-Mediator with the case and to plan an effective dispute resolution timeline and series of events.
- The Co-Mediator handles the interim series of events keeping Mr. Hart informed with memoranda in the mediation file. On an as needed basis, Mr. Hart joins conference calls or virtual meetings to assist in smooth completion of the mediation process.
- Mr. Hart handles the final closing money day or days along with any mediator proposal process that may be necessary and agreed to by counsel and the parties.

If this approach sounds appropriate for your dispute, please contact Mr. Hart's case manager, Brigitte Macias, and she can work with Counsel to initiate the process.

Please Contact for More Information:

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