

**Sample Pre-Mediation Letter from Patrick Malone. See confidentiality discussion in paragraph 2.**

Dear [opposing counsel]:

In advance of the mediation next Tuesday, I want to give you some of my standard ground rules to prevent any potential misunderstandings:

1. We will not consider any offers of annuities or structured settlements at the mediation. We will leave open the door to considering them at a later time if we reach agreement on a cash offer.
2. We will agree to confidentiality of only the amount of any settlement, with an exception for close family members and financial advisers who in turn will agree to maintain the confidentiality of the amount. We will not agree to confidentiality about any of the underlying facts of the case or of the fact that a confidential settlement has occurred.
3. We will not entertain any “high-low” offers that hinge on the outcome of the jury trial.
4. We will not entertain any offers which require separate negotiation of plaintiff’s attorney’s fees, inasmuch as this would create a conflict of interest between the plaintiff and his counsel. We will terminate the mediation if any offers are made that create any such conflicts of interest.
5. If settlement is reached, we will require a firm deadline for payment of the money and will require deposit of the money into our trust account pending any necessary court approval.
6. We will not sign any release documents which contain terms not agreed to at the time of the mediation.
7. If settlement is reached, we will require a signed memorandum of settlement before we conclude the mediation.

My client has agreed to all these terms.

I look forward to seeing you on Tuesday.

Sincerely,

Patrick A. Malone

PAM/ads