

Example 1: Pre-Mediation Preparation Checklist (Lawyer's Use)

Category	Task	Complete?
Case Review	Update case summary and pleadings; confirm discovery status.	<input type="checkbox"/>
Evidence	Identify 3 strongest facts and 3 vulnerabilities; prepare exhibits.	<input type="checkbox"/>
Valuation	Calculate best, base, and worst-case outcomes; include fees and costs.	<input type="checkbox"/>
Client Communication	Explain mediation process, confidentiality, and BATNA/WATNA analysis.	<input type="checkbox"/>
Authority & Attendance	Confirm that all decision-makers will attend with full authority.	<input type="checkbox"/>
Settlement Goals	Define target, fallback, and walk-away figures.	<input type="checkbox"/>
Offers Strategy	Draft initial demand/offer, anticipated responses, and concession plan.	<input type="checkbox"/>
Mediation Summary	Draft concise mediation summary and decide whether sending to mediator and/or opposing counsel.	<input type="checkbox"/>
Logistics	Confirm date, time, format (in-person/Zoom), and materials needed.	<input type="checkbox"/>
Settlement/Term Sheet	Prepare editable draft for same-day finalization.	<input type="checkbox"/>

Example 2: Client Mediation Checklist (For Pre-Session Meeting)

This checklist helps clients feel organized and reduces anxiety:

1. **Understand the Process:** Mediation is confidential and voluntary—focus on interests, not blame.
2. **Prepare Key Documents:** Bring contracts, bills, letters, or photos relevant to your case.
3. **Know Your Goals:** List your “must-haves” and “can-live-with” outcomes.
4. **Budget Realistically:** Factor in legal fees, time costs, and stress savings of settlement.
5. **Decide Who Attends:** Ensure all decision-makers are available and reachable.
6. **Expect to Compromise:** Be prepared for a give-and-take process, not a verdict.
7. **Stay Professional:** Let your mediator manage the tone; avoid emotional escalation.
8. **Ask Questions:** Clarify terms before signing any agreement.

Example 3: Core Concepts & Modules for Developing Your Own Checklist

These are concepts to consider when developing your own mediation prep checklist.

1. Core Case File & Facts

- a. Pleadings, key orders, dispositive-motion posture, outstanding discovery issues
- b. Brief chronology of the case and *three strongest facts* / *three soft spots*
- c. Exhibits you would actually use at trial and possibly use at mediation (with page cites)

2. Law & Risk

- a. Elements, burdens, and jury instructions that really matter
- b. Best case / neutral / worst case outcomes with probability ranges
- c. Litigation budget vs. verdict and collection risk

3. Numbers

- a. Damages model or valuation worksheet
- b. Verdict form draft
- c. Interest, fees exposure, liens/Medicare/Medicaid offsets, insurance limits, coverage defenses
- d. Tax or structuring considerations for settlement (annuities, QSFs, allocations)

4. Parties, People, and Authority

- a. Decision-makers who must attend (client, carrier, board designee, etc.) and their real authority
- b. Confidential stakeholder concerns (reputational risk, precedent anxiety)
- c. Interpreter, accessibility, or tech needs for remote sessions

5. Offers Strategy

- a. Anchors, concessions plan (what/when/why), and walk-away position(s)
- b. Cross-offer contingencies (e.g., "If they do X, we can move Y")
- c. Non-monetary terms you will trade (reference letters, transition support, training, confidentiality clauses, etc.)
- d. BATNA/WATNA Reality Testing
- e. Your credible next steps if no deal (hearing dates, litigation budget and spend, trial posture and date)
- f. Their potential next steps and how you'll explain them in caucus

6. Ethics & Confidentiality

- a. Mediation privilege, confidentiality rules, and local practice requirements
- b. Informed-consent talking points with client (process, caucus norms, mediator's role)

7. Mediation Summary or Brief

- a. can help mediator unlock value

8. Logistics

- a. Venue/Zoom links, room plan, whiteboard/pads, chargers, print vs. e-signature

- b. Food breaks (hungry clients make bad decisions), parking, travel buffers

9. Settlement, Term Sheet & Closing

- a. Pre-drafted term sheet or settlement agreement with blanks- this can be key to avoid blowing up an almost secure settlement
- b. Authority to sign; e-signature plan
- c. Scope of must have terms for releases such as lien language, no admission clauses, tax language, confidentiality carve-outs, enforcement forum, etc.