

San Francisco

LEGAL EDUCATION CONFERENCE | OCTOBER 1, 2026

GRSM50
GORDON REES SCULLY MANSUKHANI
YOUR 50 STATE LAW FIRM™

What Role Do I Play? A Successful Mediation Takes a Team

**Preparation. Communication. Collaboration.
Resolution.**

SPEAKERS



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“You say impossible, but all I hear is ‘I’m possible.’”

- Ted Lasso



Session Objectives

Attendees will learn:

- How each participant (attorney, client, adjuster) contributes to mediation success**
- How to prepare for mediation**
- What happens at mediation**
- Practical tools for achieving better outcomes**

Mediation Is a Team Sport

Key point: A successful mediation rarely turns on a single point of evidence or argument.

It succeeds because:

- **Attorneys are organized**
- **Clients are prepared and engaged**
- **Adjusters are empowered**

Today's Game Plan

- **Planning**
- **Preparation**
- **Mediation**
- **Resolution**
- **Post-Mediation**

PLANNING

“My plan is for my plan to work...”



Deciding Whether and When to Mediate

Discussion points:

- **Is the timing right?**
- **Do we need more facts?**
- **Will discovery help?**
- **What are the risks of waiting?**

Attorney Planning Decisions

- **Discovery posture**
- **Motion practice**
- **Expert discovery**
- **Trial proximity**
- **Strategic settlement windows**

Choosing the Right Mediator

- **Former judge or practitioner**
- **Relationship to counsel**
- **Subject matter expertise**
- **Approach: Evaluative, Facilitative, Aggressive, Compassionate, Consensus-builder**

PREPARATION

“You know what they say, ‘If you don’t have a plan, you’re part of someone else’s.’”



Adjuster Checklist

- **Receive and review attorney case assessment**
- **Request any additional necessary information**
- **Obtain appropriate settlement authority**
- **Identify and discuss any coverage issues separately with client**

Client Checklist

- **Identify key motivators: business disruption, reputational concern, confidentiality**
- **Ensure attendance of appropriate parties with knowledge and authority**
- **Understand role and expectations**

Attorney Checklist

- **Marshall evidence**
- **Prepare brief**
- **Prepare and circulate settlement agreement**
- **Prepare clients**
- **Prepare mediator**
- **Prepare opposing counsel**

MEDIATION DAY

“Taking on a challenge is a lot like riding a horse, isn’t it? If you’re comfortable while you’re doing it, you’re probably doing it wrong.”



Understanding the Rules

- **Virtual vs. in-person**
- **Confidentiality**
- **Joint sessions**
- **Caucuses**

The Rhythm of the Game

Common Timeline:

9:00 AM → Opening

11:00 AM → First numbers

1:00 PM → Impasse

3:00 PM → Breakthrough

5:00 PM → Settlement

Negotiation 101

- **Tit-for-tat**
- **Brackets**
- **Mediator's bracket**
- **Last best and final**
- **Mediator's proposal**

Fancy Footwork

- **Non-monetary terms**
- **Payment terms**
- **Confidentiality**
- **Apologies**
- **Business solutions**
- **Timing**

Leaving with a Deal

Attorney:

- **Get signatures**

Adjuster:

- **Confirm payment logistics**

Client:

- **Confirm critical terms**

POST-MEDIATION

“Our goal is to go out like Willie Nelson, on a high.”



Blocking and Tackling

- **Understand and agree upon mechanics of payment**
- **Track time for payment**
- **Notice of Settlement and Dismissal of case**
- **Performance of any non-monetary terms**

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