

FACILITATED SETTLEMENT FACTS

What Is a Facilitated Settlement? A Facilitated Settlement is where you and your attorneys meet with an impartial, experienced person to discuss the issues of your case to try to resolve it. This is not a judicial settlement conference, in which you would meet with a retired judge for purposes of a settlement conference. In a facilitated settlement, the impartial person, called a facilitator, listens to you or your attorneys present a shorter version of your case and assists you in negotiating a settlement of your case. The Facilitator may give you his or her opinion of how the case could be resolved if it went to trial as part of the negotiation process.

What Is A Settlement Facilitator? Facilitators are usually attorneys that have experience dealing with your type of case. Facilitators do not prefer one side; they are impartial. However, they do evaluate your case and tell you the likelihood of success if appropriate during the settlement negotiation process.

Why Should I Have To Attend Facilitated Settlement?

In most cases, Facilitated Settlements are ordered by the Court and in some cases, you are given the option of attempting to settle the case on a day when your trial has been scheduled. Facilitated Settlements are a way to resolve all or a part of your dispute. It gives you the ultimate decision making power rather than a judge or jury. Facilitated Settlements also save the time and cost of a trial.

What Is A Court Order? A Court Order is something that the Court requires you to do. The Court may have ordered you attend a Facilitated Settlement Session. The Court has several ways to discipline a person who refuses to comply with a Court Order. You should read the Order. Make sure you have done what it requires. If you have questions, please ask your attorney.

What If I Want A Specific Facilitator? You can file a written objection with the Court within 30 days of receiving the Order referring you to a Settlement Facilitator. The Court will then rule on your request.

Are Facilitated Settlements Secret? It is up to the participants to make their own rules as to confidentiality. Generally, the facilitator will not discuss the information from the Facilitated Settlement.

Can I Talk With the Facilitator Before the Facilitated Settlement Session? Probably not. The Facilitator is a neutral person, and his or her job is to help all participants resolve the issues.

Should My Attorney Attend? Attorneys usually attend facilitated settlement sessions, but that is a decision to be made by you and your attorney.

How Long Is a Facilitated Settlement Session? It depends on how the facilitated settlement session is scheduled. If it is by court order, each session will last approximately (1 1/2) hours unless you resolve the dispute in a shorter time. If the session occurs on the day of your scheduled trial, it can last for several hours or until the dispute is resolved.

What Happens If We Write An Agreement? Parties are bound by the agreement when they sign it, and it may become part of your court case. Please discuss this issue further with your attorney.

What Happens If We Don't Reach An Agreement? If you cannot resolve your dispute, the Court will.

What Happens If We Can't Agree On All Our Issues? If you agree on some issues, you can write an agreement only about those decisions.