
HAPLESS HARVEST

MEDIATION

DEFENSE CLIENT PREPARATION FOR MEDIATION SESSION

Information for Total Insurance Representative

[You are assumed to be familiar with the document titled: “General and Confidential Information for Total Insurance’s Claims Adjuster and/or Harvest Plenty’s Business Representative(s).” Please review it if necessary.]

Recently, the Total Insurance lawyer contacted you and explained that his attempt settlement negotiations with the plaintiff’s lawyer made absolutely no progress. In response to your lawyer’s request for an opening demand, the plaintiff’s lawyer refused to start any lower than the million dollars number in the complaint. Your lawyer said, correctly, that Total Insurance wouldn’t respond to that, you needed a serious number to negotiate in good faith. “Negotiations have to be in a reality zone, or they are not worth my time.”

You and the lawyer both know that it’s Total Insurance Co.’s general policy to encourage mediation when settlement negotiations fail, that’s not a problem. That’s why you weren’t surprised to learn that the lawyers agreed to try mediation to settle the case. Apparently, the lawyers have now also agreed upon a mediator and have already participated in a preliminary conference with him.

Even though that’s the general policy, you frankly wonder why your lawyer seems so keen on settlement instead of going to trial in this case. You suspect Jan Hapless is at best a malingerer and at worst, a low life who was looking for a so-called injury to happen.

Nevertheless, you agreed to meet with the lawyer to review his analysis of the case in the wake of some initial depositions and review of the medical records. If he’s going to want you to increase the Total Insurance company’s settlement reserve on the case, he’s going to have to justify it.

Of course, you recognize the importance of preparing a joint approach to mediation – what the lawyer will say, what you will say, and how you both will negotiate. You know how the process works.

Get ready for your meeting with your lawyer, in preparation for the mediation.