



**SYNERGY OF MEDIATION IN
CASE SETTLEMENT CONFERENCE IN
THE DISTRICT COURT**

**MS. CLARA YIP
CSC MASTER**

**5TH MAY 2023
(FRIDAY)**

Differences between CSC and Mediation

	CSC	Mediation
Process	<ul style="list-style-type: none"> • Settlement Conference in Chambers (not open to public). • Stand down for Parties' seeking legal advice and negotiating with other party. 	<ul style="list-style-type: none"> • Pre-mediation sessions (individual session with one party), Joint Session, Caucus
Duration	lasts for 2-3 hours; may be adjourned	Few hours to over 20 hours (usually, Family Mediation may take longer hours than General Mediation)
Chairman of Conference/ Meeting	Master	Mediator

Differences between CSC and Mediation

Attendants	Parties + Legal Representatives (compulsory)	Parties + Legal Representatives (optional)
Skills	<ul style="list-style-type: none">• Trust building on CSC principles and procedure• Uncovering Interests of Parties and encourage listening to each other's interest	<ul style="list-style-type: none">• Rapport building with Mediator• Interests exploration and facilitating mutual understanding thereof

Differences between CSC and Mediation

Skills (Continue)	<ul style="list-style-type: none"> • Negotiation (e.g. reality test, BATNA, WATNA...etc done in front of Parties) • Encourage Options generation and exchange • Settlement-based 	<ul style="list-style-type: none"> • Negotiation (usually done in Caucus) • Gradual flow from Interests to Options, Options to Settlement
Settlement	Consent Orders	Settlement Agreement

Attending CSC by Parties and Legal Representatives

What does a Legal Representative usually do during CSC ?

- Support and Advise client on settlement
- Explain to client **updated** views and offers/counter-offers of the other party
- Formulate **new** offers/counter-offers
- Cost and benefit analysis

Attending CSC by Parties and Legal Representatives

What does a Legal Representative usually do during CSC ?

- Risk analysis (e.g. what needs to be done/challenge to be faced if not settled today ?)
- Conduct **collaborative negotiation** with the other party
- Drafting/Working with the other party on settlement terms

Settled/Not Settled after CSC

What does a Legal Representative usually do **after CSC** ?

- If settled, advise and monitor on enforcement of settlement terms.
- If not settled, **continue to explore settlement** through adjourned CSC, mediation, without prejudice negotiation, sanctioned offer/ sanctioned payment...etc. AND **prepare for the proceedings** at next stage e.g. Case Management Conference.

Factors contributing to Settlement in CSC

- a serious setting
- a structured process
- a “**pause**” for parties to re-consider their case
and litigation risks

Factors contributing to Settlement in CSC

- provides a platform for all parties and legal representatives to **focus on settlement** (and not legal issues)
- **collaborative** work among parties, legal representatives and Court
- settlement terms become **Court Orders**

What does Settlement mean to the Parties ?

- a commercial deal
- a practical and efficient resolution of dispute (save time and costs)
- **“My voice be heard and difficulties/struggles be understood.”**

What does Settlement mean to the Parties ?

- a life lesson (to learn and unlearn something)
- ending of an exhausting battle
- starting a **new chapter of life** (hope)

*May Peace
Be With You !*