

Rule 9 – Ethical Standards
Hypothetical Mediation Case Scenarios

Group / Scenario #1

The mediator knows the lawyer for one of the parties; the lawyer was a college classmate of the mediator, and they see each other yearly at college reunions.

Group / Scenario #2

The parties disagree about the meaning of the settlement agreement they worked out with the mediator, and counsel for Party A issues a deposition subpoena, ordering the mediator to testify about the discussion in the mediation and to bring her notes from the mediation session. Party B opposes the testifying of the mediator.

Group / Scenario #3

In a business divorce case, Partner A discloses to the mediator that he is personally about to receive a substantial contract from one of the partnership's best clients and that her partner does not know this; Partner B would balk at their 50/50 division of assets if he knew. Partner A insists that the mediator not disclose this information to her partner or she will quit the mediation.

Group / Scenario #4

Consumer dispute with an insurance company over alleged over-charge; the mediator is currently in a dispute with his insurance company over another issue (underpayment on a loss claim.) Disclose?

Group / Scenario #5

In an unsafe-conditions case, the mediator learns in a private session that the tenant would be willing to vacate the premises in exchange for a payment of \$1,000, but that is her bottom line; she asks the mediator to tell the landlord that she wants \$1,500. The mediator inadvertently discloses to the landlord that the tenant would be willing to leave if paid \$1,000.

Questions:

- A. What ethical standards apply and/or would be helpful in providing guidance for the mediator in this scenario?
- B. What course of action would you take as the mediator?
- C. How would you do it? What would you say to the parties? (Role-play this in your small group.)