



# Caroline Vincent



## What's Possible in Mediation?

August 2016

My favorite question to mediation participants is “What’s possible in this mediation?” A powerful question, it conveys a variety of positive, productive and forward going ideas:

***We are here today to find a solution.*** While sometimes necessary to varying degrees, too many mediation advocates and mediators engage in endless discussions of the strengths and weakness of the case, instead of exploring what’s possible. Try to get to the settlement range by putting the focus on case evaluation through negotiated moves – tell the other side about your side’s evaluation of the case, and why you think that the number you are proposing is commensurate with your valuation.

***Let’s get to the ballpark of possible dollar figures that will work for each side.*** We are here to settle the case, so the sooner we begin to let the other side know what we think is possible (ranges, brackets, messages with moves), the sooner we will find out if there is a settlement that can be made. As the parties approach the closure range, non-monetary settlement options and deal terms can be explored.

***Let’s move through the unique dynamics, factual development, personality and other issues, turning stumbling blocks into building blocks.*** How we envision a challenge has everything to do with our likelihood of resolving it. What’s possible for restoring or severing relationships; what next steps might work in this case? In a recent article I co-wrote with ADR Services colleague Daniel Ben-Zvi, we explore these and a myriad of other procedural and substantive techniques. Titled **Duels to Handshakes**, we suggest you leave your weapons at the door and be open-minded to the diverse possibilities that arise in mediation.

Our article is in the upcoming CAALA Convention publication of *Advocate*. [Click here to read it.](#)

*Caroline C. Vincent is an attorney mediator, neutral evaluator and arbitrator with ADR Services, Inc. in Los Angeles and Orange County, who has heard over 2000 disputes in her 25 year ADR career. She specializes in employment, complex torts, probate/elder abuse, insurance, professional liability and business and real estate disputes, including class and mass actions. Caroline is a 1978 graduate of the USC Gould School of Law where she served on Law Review, and teaches ADR Ethics. She is recognized in Super Lawyers for her expertise in ADR.*