



Welcome to Henning Mediation



henningmediation.com



Introducing Mathew K. Titus

- Nationwide civil litigation practice
- Has represented both plaintiffs and defendants in complex personal injury and business dispute cases.
- Georgia Trend Magazine's Legal Elite Award
- Super Lawyer by Atlanta Magazine
- Henning Mediator since 2024





When the Lawyer Hat Doesn't Fit So Well

Mathew K. Titus





Wrong Hat, Wrong Room

- “Mediation is not a smaller courtroom. It’s a different room with different rules.”
- Lawyer instincts are optimized for winning arguments, not moving people.

A vertical image on the left side of the slide showing a close-up of a pair of scales of justice. The scales are made of metal and have two pans hanging from a central point. The background is a blurred grey.

Hat #1: The Trial Advocate

Instinct:

- Argue merits
- Prove you're right
- Expose the other side's weakness

Why It Fails in Mediation:

- Triggers defensiveness
- Reinforces identity-based resistance

A vertical image of a pair of scales of justice, with the pans hanging from a central point. The scales are slightly tilted, with the right pan being lower. The background is a soft, out-of-focus grey.

Hat #1: The Trial Advocate

Mediator Insight:

- Mediators don't need convincing; decision-makers need emotional permission to move

What to Wear Instead:

- The **Risk Translator**
- Shift from “we win” to “here’s where uncertainty lives”



Hat #2: The Strategist Who Never Concedes

Instinct:

- Hold position
- Move last
- Never show weakness

Why It Fails in Mediation:

- Early rigidity hardens anchors
- Late movement triggers loss aversion



Hat #2: The Strategist Who Never Concedes

Mediator Insight:

- Early flexibility signals control. Late flexibility signals fear.

What to Wear Instead:

- The **Sequence Architect**
- Control timing, not just numbers



Hat #3: The Client's Warrior

Instinct:

- Perform toughness
- Protect client from hard truths
- “We don’t blink”

Why It Fails in Mediation:

- Clients internalize positions as identity
- Lawyers amplify client bias
- Settlement feels like betrayal



Hat #3: The Client's Warrior

Mediator Insight:

- Clients listen differently to mediators than to their own lawyers

The Replacement Hat:

- The **Decision Coach**
- Help clients choose, not “win”

What the Mediators Are Doing (While the lawyers are lawyering)

Assessing:

- Who is movable
- Who is posturing
- Who has client authority

Managing:

- Bias
- Emotion
- Timing
- Credibility

What the Mediators Are Doing (While the lawyers are lawyering)

Mediators are not neutral messengers

How Lawyers Can Help (or Hinder)

- Give mediators messages or tasks beyond just numbers
- Protect mediator credibility
- Communicate what you need

Practical Takeaways: Switching Hats in Real Time

Questions to Ask Yourself in Mediation:

1. Am I trying to win an argument or move a decision?
2. Should I say this—or let the mediator?
3. Is this the right time—or just the right point?

The Professional Skill No One Teaches

“The best mediation lawyers aren’t less aggressive- they’re more adaptive.”

Taking off the lawyer hat isn’t a weakness.

It’s situational mastery.



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Mediation & Arbitration Service, Inc.

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