



**Sotomayor Law**

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Mediation, Arbitration and  
Business Dispute Services



### New Beginnings - Rethinking "Readiness" for Mediation

The Chinese Lunar New Year begins on January 25, 2020. This is a Year of the Rat. As the first animal in the Chinese zodiac, the Rat is associated with cleverness, success, energy, wealth, wellness, and overall renewal.

You might see this as a great year to really bring your New Year's Resolutions to fruition. I think it is a great year to rethink your approach to mediation. These days, mediation looks more and more like litigation, the risky, adversarial alternative that mediation is intended to avoid.

In the world of 2020, "preparedness" for the risks of damage from natural, technological, and political disasters is at the forefront of many people's minds. Preparedness is about being ready to withstand attack or adversity. Preparation includes things people do to get ready. Being "prepared" for mediation requires doing a lot of things **and** being ready for the adversity participants will have to contend with in negotiations.

If you want to "win" in mediation, or even seek that golden ring of "win-win," then you need to be ready. Be clever and energetic like the Rat this year. Rethink what you do to get ready for mediation. I recommend that you make a list. You can always call if you want to talk about it.

**TRY THIS** in 2020: Begin with conversation about whether mediation is a good idea for the case. Do this with your client (as now required by California Evidence Code 1129 – see my article [here](#) and get the form [here](#)) and then with opposing counsel. If you institute this practice as a regular checklist item, then opening the conversation never suggests weakness. It becomes a normal matter of client or counsel litigation policy. After all, it usually is.

#### **About Rande Sotomayor**

*Rande S. Sotomayor is a Los Angeles-based mediator with 35 years of commercial litigation and dispute resolution experience, now specializing in business, real property,*

*employment, personal injury, insurance, and ERISA benefits disputes.*

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