

TRANSACTION COSTS ANALYSIS

Client _____

File _____

Date _____

	Normal transaction costs of filing and proceeding with litigation	Applicable to me? Y/N	MY BEST CASE Est.\$ value	MY WORST CASE Est.\$ value	Risk Tolerance 1=low 10=high	Applicable to them? Y/N	THEIR BEST CASE Est.\$ value	THEIR WORST CASE Est.\$ value	Risk Tolerance 1=low 10=high	NOTES How much is it worth for me to settle now?
1	____ weeks/months/years of personal stress and uncertainty									
2	____ wks/mnths/ys of stress on children and other family members									
3	____ wks/mnths/ys of stress on others and on work associates									
4	____ weeks absent from work									
5	____ weeks of lost employee time preparing for hearing									
6	____ wks/mnths/ys of lost concentration and focus at work									
7	____ wks/mnths/ys business on hold/ cost of ____ years of less innovation									
8	Cost of not doing other things									
9	____ wks/mnths/ys un-able to get on with life									
10	Impact on me when witnesses subpoenaed									
11	Negative publicity									
12	Non-recoverable legal costs									

Normal transaction costs of filing and proceeding with litigation	Applicable to me? Y/N	MY BEST CASE Est.\$ value	MY WORST CASE Est.\$ value	Risk Tolerance 1=low 10=high	Applicable to them? Y/N	THEIR BEST CASE Est.\$ value	THEIR WORST CASE Est.\$ value	Risk Tolerance 1=low 10=high	NOTES How much is it worth for me to settle now?
13 Non-recoverable expert costs									
14 Possible costs against me									
15 Interest lost on money received later rather than sooner									
16 Emotional costs in my life if I lose									
17 Loss of relationships if I lose									
18 Loss of flexibility in decision making I have now which I may lose if I wait									
19 Cost of recriminations if I win									
20 Cost of all of the above repeated if there is an appeal									
Estimated total of transaction costs									

NB. These costs are rough estimates. All these figures will fluctuate up and down as the case develops and more facts and factors emerge.

Once you have filled out this sheet, turn to the *Litigation Risk Analysis* sheet and complete for a better overview of the costs of proceeding. This is to develop a realistic idea of what a sensible settlement will be in mediation.

LITIGATION RISK ANALYSIS

Client _____

File _____

Date _____

Transaction cost: _____

Description	Example 1	Your case
Number viewed as "fair"	300,000	
Best-day award	500,000	
Worst-day award	100,000	
% chance that Court will accept 100% my view of the facts	70%	
% chance that Court will accept 100% my view of the law	70%	
Discount to reasonable number - % chance plus costs in risk analysis sheet	300,000 * 70% minus transaction costs I will not have to pay because I am settling now	