



**JAMS TRAINING VIDEO
(Claudia v. PMG, Inc.)**

“Mediating a Sexual Harassment Case: What Would You Do?”

VIDEO SCRIPT

SCENE 1: PARTICIPANTS, CLAIM, AND BACKGROUND

INT. OFFICE BUILDING / LOBBY -- DAY

Larry and his client Claudia entering frame -- they walk to the front desk.

MEDIATOR (O.S.)

Although I've been mediating disputes at JAMS for many years, I can always learn from how others handle various situations. That is what this video is all about...

AT THE FRONT DESK

Claudia and Larry sign in.

MEDIATOR (O.S.)

Claudia, the claimant, is in the Management Development Program at PGM, a publicly held company. The Company recruits candidates from the major B schools and those that get through the MDP have great career potential in the Company. Claudia fits the description of a good recruit and has progressed well until she got to the finance department headed by Paul.... Claudia is represented by Larry, a high profile plaintiff's employment lawyer, who's seen it all and often appears in the media.

Claudia and Larry leave the front desk and exit down the hall.

INT. OFFICE BUILDING / LOBBY -- CONTINUOUS

Ann and Paul exit the elevator and continue to the front desk.

AT THE FRONT DESK

Ann and Paul sign in.

MEDIATOR (O.S.)

Paul is Claudia's supervisor. He's a good family man and a hands-on executive who devotes close personal attention to his subordinates and is destined for greater things in the company. Paul's counsel is Ann, a senior member of the General Counsel's Office who just moved inside from PGM's major outside law firm. Ann handles all employment claims and other major trial work.

Paul and Ann exit the lobby area.

INT. MEDIATION OFFICE/JOINT CAUCUS -- DAY

Contracts/confidentiality agreements being passed around the table by the Mediator.

MEDIATOR (O.S.)

You've all been given the facts of the case, so I won't go into much detail. Claudia claims that Paul sexually harassed her shortly after he informed her of his unfavorable evaluation of her work. After the alleged incident, Claudia sought out Larry to help her with her claim. They filed a sexual harassment charge with the EEOC, which escalated the dispute. Discussions have failed to reach any agreement and they selected me to mediate the matter before a lawsuit is filed. We are scheduled to go a full day and then some if needed.

The parties look over the agreement.

MEDIATOR

I've handed out the standard JAMS confidentiality agreement. Once the lawyers look it over, I will then set the ground rules for today's mediation. After which, Larry will begin the joint session with his opening statement... I have the feeling this is going to be a long day.

SCENE 2: JOINT SESSION – PLAINTIFF’S OPENING

LARRY

(After perusing the document)

I don't want to recap everything that's in our mediation brief. But I do want to stress a few facts, which are going to be important for us to discuss. First, the confidentiality of this process can't preclude me from talking with other women in the company regarding this mediation. Second, we're here only to discuss this case before we file suit because the mediator convinced us that the company is serious about settling. Which to me, means PMG needs to put their money where their mouth is.... Let's not play games; you've got the potential of a class action here. And I've got to be honest. When we tried to negotiate this before, it went absolutely nowhere even though there are no real disputes over the facts. My client, Claudia, did exactly what she was supposed to do. She complained to HR and the subsequent investigation was a joke. This is one of the more serious cases I've ever seen. It fractures the progress of young woman at the beginning of a promising career. And furthermore, I'm completely shocked that PMG would allow Paul to be here.

CLAUDIA

I agree. I don't understand why Paul is here either. I can't sleep. I can't eat. I don't trust anyone. He's ruined my life. He claims to be a righteous, family man, a pillar of the community but it's all bullshit.

SCENE 3: JOINT SESSION – DEFENDANT’S OPENING/RESPONSE

ANN

Well, this is going to be a long day. First of all our version of the facts is very different than Claudia's but we will talk to the mediator about that in private caucus. Please don't try to threaten us with phony hints of class actions. If we can't rely on the confidentiality of this meeting than there is no sense in proceeding... Look, we're here to listen but I don't want to create any false expectations about a settlement. Maybe Paul would like to add something.

PAUL

Other than she is a liar, I have nothing more to say. Beside, I need to be back in my office at two for an important meeting. So I assume we'll be done here by one o'clock.

FADE OUT

SCENE 4: FIRST PLAINTIFF CAUCUS

INT. MEDIATION OFFICE/PRIVATE CAUCUS WITH PLAINTIFF

The Mediator sits across from Claudia and her attorney.

MEDIATOR

Well Claudia, it sounds like you have been through a lot. Tell me about it.

CLAUDIA

Paul was a mentor to me. I trusted him. I'm an eager, friendly person and I guess he mistook it for something more. I feel like my career is ruined. This will follow me forever. He's a pig. What should I do?

FADE OUT

SCENE 5: \$2 MILLION DEMAND

INT. MEDIATION OFFICE/PRIVATE CAUCUS WITH PLAINTIFF

LARRY

They've stonewalled this from the beginning. You and I both know that this is a seven-figure case. You need to let them know that we are adamant about getting at least a two million-dollar offer... and there's very little room to negotiate. A couple hundred thousand tops. I'm not going to let them waste our time.

CLAUDIA

Larry said you could help us. What do you think the case is worth?

FADE OUT

SCENE 6: PLAINTIFF DISCLOSES CONFIDENTIAL INFORMATION

INT. MEDIATION OFFICE/PRIVATE CAUCUS WITH PLAINTIFF

LARRY

This is not a he said/she said case. We have corroboration from other women who Paul has come onto. You must keep this information confidential - you are not to disclose it.

FADE OUT

SCENE 7: PLAINTIFF'S REQUEST FOR INFORMATION

INT. MEDIATION OFFICE/PRIVATE CAUCUS WITH PLAINTIFF

LARRY

They should be concerned about these other incidents. Can we find out if any formal complaints have been lodged against Paul? If so, what do they say about it? Also, I'd like to know if Paul or any other executives have been provided with gender sensitivity and awareness training, or if any prevention plan has been implemented. I don't think it has.

CLAUDIA

Bill, the HR Director, could be of some help to us. I got to know him and he told me he feared that Paul would cross the line. Can you find out why he isn't here?

FADE OUT

SCENE 8: PLAINTIFF'S JOB OFFER

INT. MEDIATION OFFICE/PRIVATE CAUCUS WITH PLAINTIFF

CLAUDIA

I don't want them to know this but I do have another job offer and it more than matches my PMG salary.

FADE OUT

SCENE 9: FIRST DEFENSE CAUCUS

INT. MEDIATION OFFICE/PRIVATE CAUCUS WITH DEFENDANT

ANN

This is a he said/she said case.
It just never happened. The truth is that she wasn't making it and she's seizing this situation to cover her own inadequacies. Plus, Larry has had this kind of plaintiff before.

PAUL

She even tried to cozy up to Bill, the HR Director. She's a little tease. I gave her every chance in the program and she just didn't make the grade. Finally she said let's talk about it over dinner. It was a stupid mistake but I agreed to the dinner. I wanted to let her down easy. Then after dinner she invited me back to her place. I knew then it was a setup. So, I left. I said no thanks. Next thing I know, bang, she filed a claim with the company. I have a family and career at stake. I want this out of my life. What do they want? What are they asking for?

FADE OUT

SCENE 10: RESPONSE TO \$2 MILLION DEMAND

INT. MEDIATION OFFICE/PRIVATE CAUCUS WITH DEFENDANT

ANN

They're out of their mind. Two million's absurd. I'm not even going to dignify that with a counter offer. Let them know that unless they come back to reality, we're walking... They're insulting you as well as us, judge. I'm surprised you would even carry that pie-in-the-sky message back. It shuts the door... I want to give them a serious message. Offer them 10,000... Our bottom line is 50 but we need some room to move.

FADE OUT

SCENE 11: SECOND PLAINTIFF CAUCUS – DELIVERING THE \$10,000 OFFER

INT. MEDIATION OFFICE/PRIVATE CAUCUS WITH PLAINTIFF

LARRY

Well, how much are they offering?

FADE OUT

SCENE 12: PLAINTIFF'S ATTORNEY'S RESPONSE TO OFFER

LARRY

Come on, Claudia. We're out of here. They're wasting our time. They don't want to settle.

FADE OUT

LARRY

Frankly, I'm insulted by their offer and the fact that you would actually bring it to us is even more insulting. I agreed to have you mediate this case because I heard you were tough. Boy was I wrong. We need someone who is going to bring them around. Did they verify the other complaints against Paul? Did you ask? This is ridiculous. What do you recommend we do? This is a seven-figure case and you're not helping.

FADE OUT

SCENE 13: PLAINTIFF'S NON-MONETARY DEMANDS (PART I)

CLAUDIA

Larry should not be in a position to mentor anyone. He's a sexual predator. Whatever happens, I want an apology, my career path intact and that bastard fired.

FADE OUT

SCENE 14: PLAINTIFF'S NON-MONETARY DEMANDS (PART II)

CLAUDIA

There is a lot of interest in this situation. Other women at the company are aware of Paul and his sexual behavior, and management invariably looks the other way. I'm really torn; on one hand I want to put this behind me, on the other I want the company to stop portraying itself as a healthy environment for women.

FADE OUT

**SCENE 15: SECOND DEFENSE CAUCUS – DELIVERING
PLAINTIFF’S RESPONSE**

INT. MEDIATION OFFICE/PRIVATE CAUCUS WITH DEFENDANT

ANN

So, what was their response to our offer?

FADE OUT

SCENE 16: DEFENDANT’S NON-MONETARY DEMANDS

PAUL

Whatever happens, Claudia's gone. She's history at our company. I also want a confidentiality agreement with teeth and a written apology from her acknowledging that her claims were false.

FADE OUT

SCENE 17: DEFENDANT CHALLENGES MEDIATOR

ANN

Larry has a lot of experience trying these cases but his track record in court is not good. It's obvious, he's not realistic about evaluating his cases. You must know that, everyone but Claudia does. The reason we agreed to mediate was so you could help educate him. Now if you aren't able to do that, then you're wasting our time.

FADE OUT

SCENE 18: DEFENDANT ATTEMPTS TO RESTRICT PLAINTIFF'S ATTORNEY

ANN

We never want to see Larry representing employees of the company ever again. We're willing to sweeten the pot to make that happen. How should we go about it?

FADE OUT

SCENE 19: DEFENSE ATTORNEY'S LIMITED AUTHORITY

ANN

I have enough authority to settle this case for \$50,000. That's it.

FADE OUT

SCENE 20: DEFENDANT DISCLOSES CONFIDENTIAL INFORMATION

ANN

We had an investigator look into our friend Miss Claudia. She's played this same card against a professor in B school, when it was apparent to her that she was not going to do well in his class. Now, that is confidential. We do not want you disclosing it. OK?

PAUL

When we get through with her, she will never work in corporate America again.

FADE OUT

SCENE 21: DEFENDANT WALKS OUT

ANN

All right, I guess this ends the mediation. Let them know that everything is off the table. We're back to square one. Tell them that over reaching sometimes backfires.

FADE OUT

SCENE 22: WHERE ARE MY PEOPLE?

SCENE 23: "DARK HOUR"

INT. MEDIATION OFFICE - HALLWAY -- LATER

The Mediator steps into Larry and Claudia's room and asks Larry to join him in the hall.

He then does the same with Ann.

The lawyers join the mediator in the hall for a brief encounter for the third time.

MEDIATOR (O.S.)

It's five o'clock, everyone's tired. We have worked hard but we're at an impasse, far from a deal. We're in the late afternoon dark period... I've brought counsel into the hall to discuss our options. I've explained to them that I believe we can put this to rest but it's going to take more time. We just have to stay with it. Ann has told me that she has the OK for an increase in her authority but nowhere near what Larry wants. They both have asked for my evaluation of the case. I don't think the normal negotiation dance will work but I have to get them closer on the money... Claudia and Paul have their careers and reputations at stake. I am also beginning to second-guess some of my earlier tactics. But we're where we are and we're stuck with it.

The Mediator turns to the camera.

MEDIATOR

What would you do now?

FADE OUT

CREDITS