

About the Chorda® Two Track Legal Registry and Education Services

What is the *Chorda two-track* model?

The model is intended to save time and money, and protect business and other relationships by removing adversarial litigation from the settlement process. ***Two-track*** attorneys are available to take Track 1 (negotiation and mediation), or Track 2 (litigation or arbitration), though not both on the same case.

Why this web site?

This web site is a service to parties and attorneys. For parties, it identifies attorneys who are willing to take a ***two-track*** approach on a case, representing either the plaintiff or the defendant. It also provides an opportunity for any party or attorney, whether the attorney is listed on the site or not, to review forms that can be used to take a two-track approach.

For attorneys, the site identifies them to parties who may want a two-track approach. For attorneys who do settlement work, and especially those who have backgrounds as mediators, this provides additional ways to serve clients: (a) representing plaintiffs in Track 1 (settlement-focused negotiation, mediation, and mutually agreeable arbitration), (b) representing defendants in Track 1 settlement-focused work, (c) service as a mediator, and (d) service as an arbitrator. Attorneys interested in litigation work can be listed as Track 2 attorneys. In the future, the site will also be a home for continuing education in negotiation, mediation, arbitration, and litigation advocacy.

Who runs the business?

Chorda Two-Track Legal Registry and Education Services, is a subsidiary of Chorda Conflict Management, Inc., and is accessed via the web address of www.two-tracklawyers.com (November 14, 2003).

Gary R. Reynolds, a practicing attorney-mediator and member of the Association of Attorney Mediators, is the Executive Director. He is assisted by Diane W. Slaikeu, J.D., and support staff at Chorda.

What are the distinguishing characteristics of the *Chorda Two-Track Model*?

Chorda suggests that the following principles be honored in use of the ***two-track*** approach and offers materials that are attorney work products, which must then be reviewed and amended by individual attorneys, to implement the process. The Chorda version includes the following components:

1. An attorney who agrees to use the ***two-track*** approach for a particular case declares in writing that he/she will represent the party for either settlement or litigation or arbitration, but not for both processes on the same case. Track 1 is

settlement-focused negotiation or mediation, and Track 2 is litigation or arbitration. If an attorney represents a party for Track 1 and the case is not resolved, then the Track 1 attorney assists in an orderly transfer of the case to a Track 2 attorney. Usually the Track 2 attorney is identified at the start, and provides input to the Track 1 process.

2. The tracks are separated by law firm to eliminate the financial conflict of interest when an attorney discontinues work in Track 1, and then hands the case to another attorney with whom he or she has a business relationship to complete the Track 2 component.
3. In the Chorda model, Track 1 is always in the lead, and Track 2 litigation is in a backup role to follow Track 1. This is to be distinguished from the two tracks operating at the same time, which runs the risk that litigation will be the driving force, and will also accumulate unneeded billable hours for discovery that can be handled much less expensively in Track 1.

The Chorda model offers steps in Track 1 that focus on four standard solutions for resolving conflict (Slaikeu, 1996), which increases the chance that the outcome will be satisfactory to all sides (see Procedures Manual, Form 3).

How will this site and the services of the attorneys who sign up be marketed?

Chorda Conflict Management, Inc. has a 16-year history of building systems to serve disputing parties that include mediation clauses and other mechanisms to trigger early resolution (GE, Shell, Halliburton, Coors Brewing Company, Conoco, and others). New this year, Chorda has developed “Partners in Healing™” to serve patients, as well as hospitals, insurance companies, and other organizations. PIH uses mediation clauses that include *two-track* provisions. This means that as hospitals adopt the *two-track* approach, their law departments will use it for their own outside legal counsel, and present it to patients and plaintiff’s attorneys. The latter will then be directed to the two-tracklawyers.com site for more information.

How do I learn more?

See Articles on this site.

References

- Fisher, R. March-April 1985 . “He Who Pays the Piper.” *Harvard Business Review*, 156-157.
- Slaikeu, K.A. When Push Comes to Shove: A Practical Guide to Mediating Disputes. San Francisco: Jossey-Bass Inc., Publishers, 1996.

Slaikeu, K.A., and Hasson, R.H. Controlling the Costs of Conflict: How to Design a System for Your Organization. San Francisco: Jossey-Bass Inc., Publishers, 1998.

Slaikeu, K.A., and Slaikeu, D.W. “Confidential From General Counsel to CEO: ‘I’m Fed Up, and *We’re* Not Going to Take This Anymore!’” *Journal of Health Care Law and Policy*, 2002, (5)2, 335-355.

Slaikeu, K.A., and Slaikeu, D.W. “*Two-Track* Model for Attorney Representation in Dispute Resolution.” Austin, Texas: Chorda Conflict Management, Inc., 2003. Pre-publication draft.