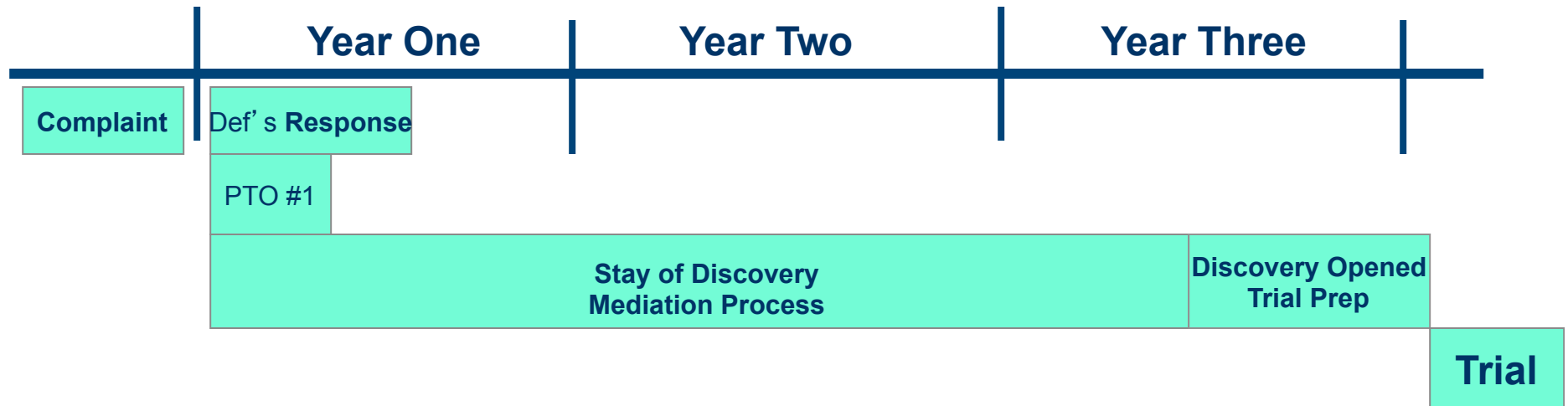


# **THE SPECIAL MASTER PROGRAM: It's Not Getting The Job Done!**



# **PROBLEMS WITH CURRENT CMO'S**

# TYPICAL CONSTRUCTION DEFECT LITIGATION TIMELINE WITH A SPECIAL MASTER



## PRETRIAL ORDERS

**Typical PTO #1**  
 \*Appt. Sp. Master  
 \*Stay Discovery

**Typical PTO #2**  
 \*Doc. Depository  
 \*Insurance Info  
 \*Statement of Claims  
 \*Scope of Work  
 \*Non-destructive/  
 destructive site  
 inspection  
 \*Deemed Answers  
 \*Deemed Xcompl.  
 \*New Parties In.

**Typical PTO #3**  
 \*Settlement scheduling  
 \*Troubleshooting

**Typical PTO #4**  
 \*Discovery scheduling  
 \*Trial Prep procedures

# INEFFICIENT USE OF TIME AND MONEY

- Can't obtain admissible evidence of liability and damages in order to evaluate case
- Cases are no longer being resolved early
- Attorneys and claims adjusters attending multiple unproductive MSC's
- No time for a discovery plan when discovery does open
- Can't file dispositive motions
- Trial dates not held



# **CODE COMPLIANT CMO'S & PTO'S**

# COURT

## Discovery Referee

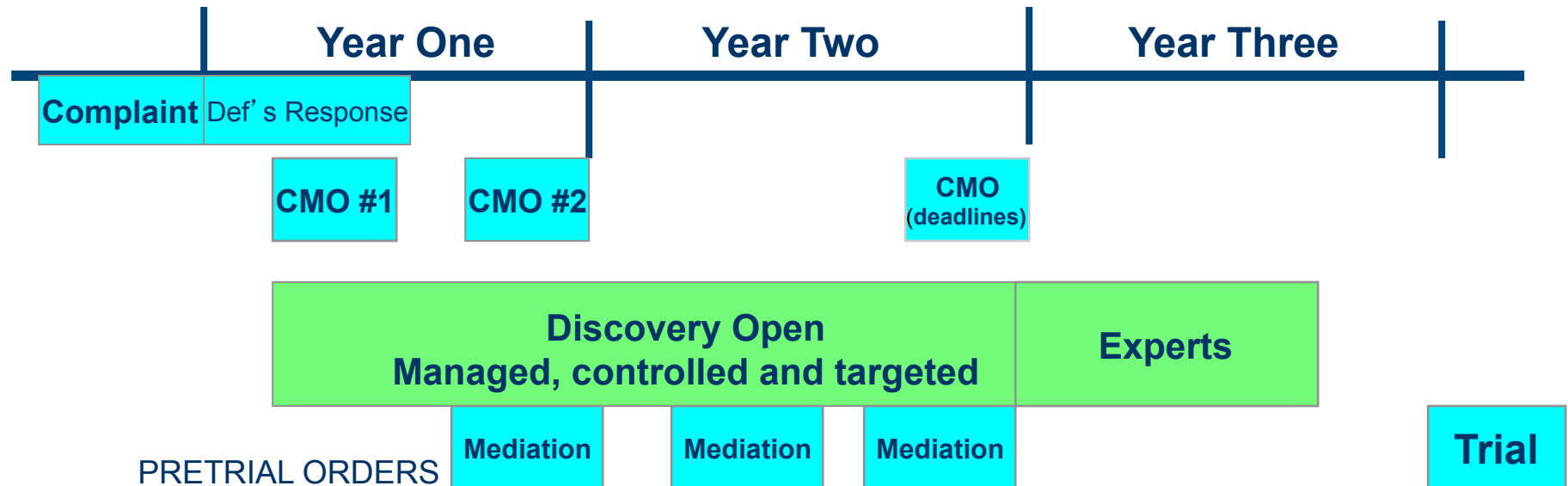
1. Coordinate a discovery plan.
2. Determine which parties need to be brought in or let out.
3. Report to the court status of case and discovery rulings.
4. Advise court of the need for dispositive motions to be heard.
5. If parties agree, obtain input from mediator regarding what discovery is needed for a productive mediation.

## MEDIATOR

1. Conduct mediations.
2. If parties consent, advise referee what discovery needs to be conducted for next settlement conference.
3. If parties consent, advise referee what dispositive motions need to be made or coverage issues needs to be resolved for next mediation.

# PARTIES

# CONSTRUCTION DEFECT LITIGATION TIMELINE USE OF SPLIT REFERENCE



## Typical CMO #1

- \*Status/motion schedule
- \*Req. for Docs.
- \*Form Interrogs.
- \*Non-destructive/ destructive site Inspection
- \*All other discovery stayed 60 days
- \*Select mediator and mediation dates

## Typical CMO #2,3...

- \*Discovery needed for mediation
- \*Discovery needed for MSJ/MSA
- \*Discovery plan
- \*Rulings on discovery motions

## CMO (Deadlines)

- \*Set deadlines for close of discovery and expert disclosure

## CMO (Experts)

- \*Expert schedule

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# ADVANTAGES OF A CODE COMPLIANT CMO/PTO

- Will be able to obtain admissible evidence regarding liability and damages within 90 days
- Will be able to settle cases earlier
- Will be able to bring a MSJ/MSA
- Mediator does not have conflicts
- Mediation privilege is protected
- Discovery will be managed
- Trial dates will be maintained