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## MEDIATION POLICES, PROCEDURES, AND GUIDELINES

- 1. Definition of Mediation.** Mediation is a process in which an impartial person, the mediator, facilitates communication between the disputing parties to promote reconciliation, settlement or understanding among them. The mediator may suggest ways of resolving the dispute, but may not impose a judgment on the parties.
- 2. Orders.** Parties ordered to mediation by a Court must provide the mediator with a copy of the order. If the order to mediate is verbal, the party initiating the mediation must so state that fact in an accompanying letter.
- 3. Role and Authority of the Mediator.**
  - a.** The mediator does not have the authority to impose a settlement on the parties, but will facilitate discussions and negotiations between the parties and may offer suggestions or options to assist the parties in reaching a satisfactory resolution to the dispute.
  - b.** The mediator will start the mediation session; keep order; approve breaks and recesses; conduct separate, private meetings with each party (caucuses); and end the session.
  - c.** The mediator has the authority to expel individuals from the session who are being disruptive or counter-productive to the process.
  - d.** The mediator has the authority to recess the session to enable any individual, who is not present yet necessary, to be contacted or brought to the mediation.
  - e.** The mediator has the authority to end the mediation if, in the belief of the mediator, continued discussion will not be productive in settling all or part of the dispute.
- 4. Expert Witnesses.** The parties may arrange for experts to provide advice during the mediation concerning the technical aspects of the dispute, if the parties have agreed beforehand and have agreed to pay the costs of obtaining such advice. Arrangements for obtaining such expert witnesses must be made by the parties and the participation of the witnesses coordinated with the mediator before the scheduled date of mediation in order to gain final approval of all parties concerned.
- 5. Parties Responsibility.** The parties are responsible for negotiating any settlement to the

dispute. The mediator will not and cannot impose a settlement in a case. The mediator will, however, use every effort to facilitate the negotiations of the parties. The mediator does not and cannot guarantee the mediation process will result in a settlement of the dispute. Should a written settlement agreement be reached in a civil case, the parties have the responsibility to file the written settlement agreement with the Court.

**6. Authority of Representatives.** If named parties to the dispute are unable to attend the mediation and send representatives (such as insurance adjusters, executives, managers, etc.), such representatives must have all the necessary authority to negotiate and settle the case; all such persons must be present. Contact Information (names, addresses, telephone numbers) of all such individuals must be provided, in writing to the mediator.

**7. Privacy and Confidentiality.**

- a. Mediation sessions are private and confidential.
- b. Attendance in a mediation is limited to authorized participants.
- c. All information revealed or discussed shall not be divulged by the mediators.
- d. All records, reports, or other documents received or generated by the mediator while serving in that capacity shall be confidential.
- e. The mediator shall not be compelled to divulge such records or to testify in regard to the mediation in any adversarial or judicial forum.
- f. Any party that violates this agreement consents to pay all the reasonable fees and expenses of the mediator, and other parties, including reasonable attorneys' fees incurred in opposing efforts to compel testimony or records from the mediator.
- g. The parties shall maintain the confidentiality of the mediation and shall not rely on, or introduce as evidence in any arbitral, judicial or other proceeding.
  - i. Views expressed or suggestions made by another party with respect to a possible settlement of the dispute;
  - ii. Admissions made by another party in the course of the mediation proceedings;
  - iii. Proposals made or views expressed by the mediator; or
  - iv. The fact that another party had or had not indicated willingness to accept a proposal for settlement made by the mediator.

- v. After the mediation has been completed, the mediator assumes no responsibility for the enforcement of confidentiality, except for those individuals and files under its direct control.
- vi. Responsibility for enforcement of this provision for all other participants in the mediation rests with the parties.

**8. No Record of the Mediation Session(s).**

- a. No stenographic record, audio tape record, videotape record, or any other means of recording the mediation session shall be made.
- b. All tape recorders must be surrendered to the mediator upon entering the mediation site. They will be safeguarded until the owner is ready to leave.
- c. All cell phones must be turned off during the joint session. The mediator may remind participants to check and turn off cell phones.

**9. Termination of the Mediation.** The mediation shall be terminated by the:

- a. Execution of a mediated settlement agreement by the parties; or,
- b. Declaration of the mediator that further efforts at the mediation are not expected to be worthwhile.

**10. Other Expenses.** All ancillary expenses of the mediation, such as fees and expenses of any witness, and the cost of any proofs or expert advice produced by a party shall be borne by that party. All such expenses incurred at the direct request of the mediator, and if agreed to by the parties, shall be borne equally by the parties unless they agree otherwise.

**11. No Weapons Allowed.** No one, including the disputing parties, is allowed to bring weapons – i.e., firearms, knives, Mace or other spray deterrents, or any other object intended for use as a weapon, into the mediation site. By agreeing to mediation, parties consent to search, or scanning with a metal detector, of their person and belongings. Discovery of any weapon(s) will cause postponement of the mediation until they are removed from the mediation site.

**12. Interpretation and Application of Policies, Procedures, and Guidelines.** Michael Shane, or his designated representative, shall interpret and apply these POLICIES, PROCEDURES, AND GUIDELINES.