

ALBERT P. DOVER

JUDGE OF THE SUPERIOR COURT (RETIRED)

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[Click here and type recipient's address]

LETTER OF ENGAGEMENT: MEDIATION

RE: [Case Name]
My File Number [File Number]

[Date]

Dear Counselors:

I am pleased that you have selected me to mediate your dispute and I look forward to working with you.

WHEN AND WHERE:

The mediation is now scheduled for [Month] [Day], [Year] at [Time]. The location will be [Location].

FEE AND PAYMENT:

My fee is \$[Rate] an hour for Mediation services, with a three hour minimum (preparation time is billed in addition to the three hour minimum). Any time in excess of the minimum charge will be billed at the conclusion of the matter. If the matter is continued, an interim billing may be made. Travel time is not charged unless the service being provided is located outside of Nevada, Placer or Sierra Counties, in which case express arrangements will be stated.

Unless self-represented, **BILLS WILL BE SENT TO AND ARE THE RESPONSIBILITY OF COUNSEL.** Each party presumptively bears their own costs and fees in connection with the mediation or other service provided. The parties are free to reach their own agreements on fee payment, but should do so prior to the service being provided or, in the absence of an agreement, be bound by the presumption that fees and cost are presumptively split equally.

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BRIEFS AND DELIVERY:

I would like to have mediation briefs at least five (5) calendar days before the scheduled mediation. Briefs should not be longer than 10 pages, and preferably less. They may be exchanged or confidential, but any material exchanged should give counsel an opportunity for review prior to mediation. They should include: identity of parties; summary of the facts and issues; and any damages claimed along with the computations for each element, including a list of CURRENT medical specials, if applicable. You may attach materials you feel to be important. It helps me if you send copies of cases or reports you believe salient to a proper understanding of the issues or law. You can fax the materials to 530-265- 2237; or e-mail to the address above; or mail or have delivered to the address above.

PREPARATION:

I would advise preparing for mediation as you would for any critical settlement negotiation. Prior to the mediation you should meet with your client in order to (1) identify your needs and interests (2) discuss your cases strengths and weaknesses (3) evaluate your options by assessing your best and worst alternatives to a negotiated settlement (4) consider the consequences, risks and costs of impasse, and (5) probable outcomes if the case proceeds to trial as well as likelihood of an appeal.

ATTENDANCE/PARTICIPATION:

To insure success of the mediation it is imperative that all parties and decision-makers be present and participate in the process. It will be assumed that all clients and claims representatives will attend and have FULL authority to settle. If this is not the case, please advise myself and the other side as soon as possible. There is great benefit in both sides knowing that all persons indispensable to resolution are present and prepared to proceed to finality. Plaintiff's counsel should also put all lien holders on notice that the parties are trying to resolve the matter and that I may contact them.

PROCEDURE:

Normally the mediation begins with a joint session attended by all participants. I will explain the process and how I would like to work with the parties and counsel. Then procedural agreements are clarified and the Confidentiality Agreement is signed. The joint session is usually followed by separate sessions (confidential meetings between the mediator and each party). This is an excellent forum to develop, explore, and compare settlement options without jeopardizing your official bargaining stance.

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All parties acknowledge that the role of the mediator is not to make findings of fact or rule on issues of law, but to be an impartial neutral that facilitates a discussion that will lead to resolution of the dispute. The mediator does not coerce parties to settle or declare a winner or loser. It is the parties who resolve their dispute, voluntarily and consensually. Agreements, whether in partial or complete resolution of the dispute will be reduced to writing in a memorandum of agreement to be signed by the parties.

CONFIDENTIALITY:

All communications in connection with the mediation remain confidential pursuant to California Evidence Code Sections 1115 through 1128 and 703.5. This agreement extends to all present and future civil, judicial, quasi-judicial, arbitral, administrative or other non-criminal proceedings. As noted above, a confidentiality agreement will be signed at the commencement of the mediation by all parties

DISCLOSURES:

[Make any needed disclosures here]

CANCELLATION:

In the event a matter is canceled less than 15 BUSINESS DAYS before the scheduled date, a cancellation fee of \$[Cancellation Fee] per day scheduled will be assessed. The cancellation fee is paid by the canceling party, unless I am advised that another agreement has been reached. If you call within 15 business days of the hearing and reset the matter for a new date, and the mediation actually takes place, the cancellation fee will be credited against the mediation bill. If the matter is postponed more than once, the cancellation fee is imposed.

This cancellation policy is necessary because if a mediation is canceled within the 15 day period it is unlikely another matter can be scheduled for that time slot. Of course, if another matter can be scheduled for that time slot, there would be no cancellation fee. Unlike law offices, I do not have an active law practice and cannot perform other legal matters in the time slot provided to you.

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IMMUNITY:

All Parties, by their signature below, acknowledge and agree that this ADR provider shall have all statutory and common law immunities as available to sitting judges and arbitrators, both under California law and Federal law.

VENUE:

Should it become necessary to file an action to collect a fee in this matter, you hereby stipulate that this agreement is accepted in Nevada County and venue, for any action, is Nevada County.

ACKNOWLEDGMENT AND AGREEMENT:

Please sign a copy of this document and return it by fax, [e-mail](#) or mail (all set forth on letterhead). Your signature indicates your acknowledgment of any disclosures made herein, your agreement to the terms and conditions set forth above, and final confirmation by me of the scheduled date.

IF YOU HAVE QUESTIONS, please feel free to e-mail or call or peruse my [Web site](#). I look forward to serving you and to the resolution of your case.

Very Truly Yours,

Albert P. Dover, Judge of the Superior Court (Ret)

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AGREED AND CONFIRMED:

Lawyer or law firm or self represented party

By _____

Date: _____

Lawyer or law firm or self represented party

By _____

Date: _____