



MEDIATION, CONFIDENTIALITY, AND ONLINE RULES AGREEMENT

Rande S. Sotomayor, Esq. - Mediator

Case Name and No.: _____

RANDE S. SOTOMAYOR, ESQ. has been retained by the parties as mediator in the above-referenced matter.

To promote communication among all mediation participants, to facilitate settlement of the dispute, and consistent with California Evidence Code sections 703.5 and 1115 through 1129, 1152 and other applicable sections, with California Code of Civil Procedure section 1775.10 and other applicable sections, with the California Rules of Court, including but not limited to Rules 3.800 and 3.835 through 3.898, with any applicable local court rules, with any Federal law counterparts (including Local Rules and General Orders), and with all other governing law, the participants in this mediation acknowledge, understand, and agree that:

1. The mediator is neutral, cannot and does not act as an advocate, attorney, or representative for any party, and has no authority to make any binding decisions, impose settlements, or require concessions from any party. The mediator's statements do not constitute legal advice to any party. The parties shall seek and rely solely on the legal advice they obtain from their attorneys. The mediator has no liability for any act or omission in connection with the mediation.

2. The entire mediation proceeding shall be deemed confidential. All conduct, statements, promises, offers, views and opinions, oral or written, made during the mediation by the mediator, any party, by a party's representative or attorney, or by any other participant in the mediation are confidential.

3. No evidence of anything said, any admission made, or any writing prepared for the purpose of, in the course of, or pursuant to, a mediation or a mediation consultation is admissible or subject to discovery, and disclosure of such evidence shall not be compelled in any civil proceeding.

4. The parties agree that evidence admissible or subject to discovery or disclosure shall not be inadmissible or protected from disclosure solely by reason of its introduction or use in the mediation. Disclosure of information that is privileged shall not alter its privileged character.

5. The parties shall not subpoena the mediator for any documents submitted to or prepared by the mediator during or in connection with the mediation. The mediator shall not testify voluntarily on behalf of a party.

6. Communications between the mediator and any participant concerning the mediation shall be confidential. To encourage continuing settlement discussions between the parties and the mediator, all participants agree to waive the provisions of California Evidence Code § 1125(a)(5), which provides that a mediation ends when there is no communication between the mediator and any of the parties relating to the dispute for 10 calendar days.

7. If a settlement agreement is reached, it shall be in writing and, if the parties agree, may be submitted to the court for confirmation and approval. If a settlement agreement is signed by the parties, the parties intend that the agreement provide that it is binding and enforceable pursuant to Evidence Code § 1123. In an action or proceeding to enforce a settlement, this agreement shall not render inadmissible a written settlement agreement reached as a result of the mediation. The parties also intend that any settlement agreement signed by the parties provide that, if applicable, the agreement is enforceable under Code of Civil Procedure § 664.6, and the parties will request the Court to retain jurisdiction to enforce the agreement.



GUIDELINES AND GROUND RULES FOR ONLINE MEDIATION
(Incorporated in Mediation, Confidentiality, and Online Rules Agreement)

We use the Zoom Pro videoconference platform to conduct online mediation sessions.

1. Videoconferencing Platform: Zoom.

- You do not need a Zoom account to connect.
- All you will need is a computer with a camera and microphone, as well as a secure Wi-Fi or Ethernet (hard-wired) connection for your computer.
- To join the mediation session, just click on the link we will provide to counsel.
- You can also join the session by phone only with the call-in number, meeting ID, and password provided to you. You may want to download the Zoom app on your cell phone as backup **only**. We do not recommend using a mobile device or using the telephone dial-in numbers unless there is a failure.
- We offer practice sessions with counsel and/or clients at no additional charge.
- Test the speed and dependability of your connection BEFORE your mediation to make sure there are no connectivity issues. DO NOT use a public access Wi-Fi connection.

2. Confidentiality and Privacy

- Zoom is an encrypted platform. We use the embedded passcode feature and the Waiting Room security feature. We ordinarily do not enable chat features or allow recording in settings. We also ask for assurance that no one is on a public Wi-Fi.
- The online mediation process is governed by the same confidentiality standards as the in-person mediation process.
- ***No Recording.*** You or anyone on your behalf may NOT record, by audio, video, photography, or any other means, any mediation session or portion thereof or relay them to any third parties.
- ***Disclose Other Persons in Room.*** You agree to disclose any other persons in the room or listening, even informally. Please have **all** participants sign the Mediation, Confidentiality, and Online Rules Agreement.
- ***If Something Happens that Affects Confidentiality.*** If you receive any information that you reasonably believe was not intended for you, you agree to immediately call attention to that fact and inform the other participants.
- ***Interruption-Free Zone.*** You agree to take reasonable steps to ensure that you are not interrupted during our online mediation session. During “down times,” stay logged-in, placing your microphone on mute and video off temporarily if needed.

3. Before the Mediation Session

- Provide our office with the names and email addresses of all participants on your side for distribution of this agreement.
- Attorneys’ and adjusters’ cell phone numbers – Texts and phone calls in conjunction with videoconferencing in mediation can be very helpful to the participants and the mediator.
- Return this executed agreement at least two (2) days before the mediation session.



Sotomayor Law

Rande S. Sotomayor, Esq.

Mediation, Arbitration and Business Dispute Services



4. During the Mediation Session

- Do not click “Leave meeting,” unless you plan to leave the session. If you need a break, just click the “Mute” and “Stop Video” buttons on the lower left of the screen.
- If you get disconnected, log back in with the same link you used to begin the session.
- If you need to contact me, call my cell at **626-616-5843**. You may also use it for private communications with me during our mediation session.
- Your camera should be at eye level. You should also face any light and avoid sitting in front of a window.

5. Participation by Client Representatives

- As with in-person mediations, client representatives are required to fully participate in the videoconference, unless otherwise agreed by the parties.