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MEDIATION GUIDELINES

Please review these guidelines in advance of the scheduled mediation date. They contain important notes on procedural matters and my expectations as a mediator. Familiarity with these guidelines will make the mediation session go more smoothly and save time for the parties.

1. The focus of the mediation session will be resolving the case. Mediation is not an adversarial or judicial process. Unlike a trial, the purpose of mediation is not to settle questions of fact or determine who is right and who is wrong. Rather, the purpose is to find mutually agreeable solution space. Accordingly, while each side will have an opportunity to present relevant facts, it is important for the parties to understand up front that, ultimately, some factual issues may be left unresolved as we work toward a resolution that satisfies both parties' needs and interests.

2. Everyone, parties as well as counsel, needs to come to the mediation session as prepared as possible. This will permit all to participate fully in the mediation process and reach a settlement as expeditiously as possible.

3. The parties must have full settlement authority. I expect the parties to be prepared to settle the case expeditiously on the day of mediation.

4. Courts expect parties to appear at the mediation. Any request for electronic appearance must be by mutual agreement. If electronic appearance is mutually agreeable, participation by video-teleconference is preferred. Contested appearances require court approval.

5. I expect everyone involved in the mediation process to conduct himself or herself in a professional manner and work in good faith to settle the matter.

6. While attorneys may play an important role in the mediation session, the parties are primarily responsible for expressing their view and understanding of the underlying issues. That said, I understand that parties may authorize their attorney to speak on their behalf.

7. Each participant should come prepared to present and discuss a range of options for resolving the matter. Simply stating and restating one's legal position is not likely to result in a settlement. I encourage each participant, before as well as during the mediation session, to think of as many ways as possible of resolving the matter to the satisfaction of all concerned. Are there, for example, non-monetary solutions that might be mutually agreeable? The more options generated, the greater the chances for settlement.

8. Procedurally, the mediation session will proceed as follows:

a. On the day of the mediation session, depending upon the circumstances of the case, I may ask to meet separately with one or each of the parties before the mediation session begins. After that, I will bring the parties together and begin with my opening statement stressing that my role is that of a neutral party and that I will not advocate for one party or the other. I will also stress my role as a facilitator, not as a fact-finder or decision-maker. Finally, I will review the confidentiality restrictions applicable to the mediation.

b. The party who brought the issue may, if he or she chooses, make an uninterrupted opening statement in his or her own words about what brings us to the table. At the conclusion of this statement, I will ask counsel if he or she has anything to add.

c. Next, I will ask the responding party if he or she wants to make an uninterrupted opening statement in his or her own words. Counsel will be given an opportunity to make additional remarks.

d. The parties may continue in joint session for the purpose of asking clarifying questions and discussing options for settlement.

e. Depending upon the nature of the case and the progress being made toward settlement, I may at some point suggest that I meet with each party separately. I have often found separate meetings to be a productive use of time because they permit parties to explore settlement strategies in confidence. If there is information a party does not want me to share with the other party, please notify me before I meet with the other party. Do not read anything into the amount of time I may spend with one party or the other; that is just how it goes.

9. Thank you for your willingness to resolve this matter in cooperative and collaborative manner.