

Mediation Agreement and Online Guidelines and Ground Rules

To Be Signed by Counsel and all Mediation Participants.

1. **Mediation Session.** This mediation has been scheduled for a ___ day mediation session to be held on _____, with any needed further session or other followup activity to be determined.
2. **Online Platform.** Your mediator, Jean M. Lawler, uses the Zoom online platform to conduct online mediation sessions. You will be provided with a link to be used for the mediation session, which incorporates a password. Ms. Lawler has successfully mediated many matters via online mediation during the Covid-19 lockdown and is available to answer any questions you may have or to provide you with a training session in advance of your mediation date. That said, she wants to assure you that it can be both as seamless and successful as mediating in person. Please see her website for details about the online mediation process. www.lawleradr.com.
3. **Secure Document Transmission.** Generally, there is no need for the mediator to transmit documents during a mediation session but, if needed, she can provide a Box or Dropbox link for you to use to upload documents.
4. **Document Execution.** Settlement Agreements may be transmitted by one counsel to the other for printing and signing, including use of electronic signatures, however it is that counsel agree. Ms. Lawler does not involve herself in the preparation or exchange of settlement documentation.
5. **Secure WiFi or Ethernet Connection.** You will need a secure WiFi or Ethernet (hard-wired) connection for your computer. You should NOT use a public access WiFi connection, such as those available in public spaces and businesses as they are neither secure nor private.
6. **Privacy.** You must be in a private location during the mediation session, where you cannot be overheard and without people present who are not participants in the mediation (eg. not sitting at a Starbucks or the like!). Please take all reasonable measures to ensure that you are not interrupted during the mediation session.
7. **Absolute Prohibition on Recording.** The mediator will not be recording the mediation and the chat function will not be enabled. No participant may audio or video record the mediation session or portion thereof. If you learn of an audio or video recording of any session, immediate measures should be taken to destroy the recording and the recording should not be transmitted to any other person.

Best Practices and Troubleshooting

8. **Technology Failure Protocol.** Despite all best efforts, at times technology may not operate properly and a scheduled online mediation session may not commence on time or may be interrupted. If you are unable to join a scheduled mediation session, please immediately call Ms. Lawler at XXX-XXX-XXXX to discuss how to proceed. If you cannot connect via phone, please email her - jlawler@lawleradr.com. In the event that the technology issues cannot be resolved in reasonable time, Plan B will be to move to move to an alternative video-conference platform, with Plan C being to either move to a telephonic conference call format or reschedule the mediation session.

9. Respectful Online Communication. Due to the nature of the online format, it is especially important to allow each participant to finish their comment or statement before responding. In addition, the online format can amplify and exaggerate sound so maintaining a regular speaking voice is important. Please remember that the camera does not always transmit hand gestures or non-verbal cues, so it is important to verbalize all communication during an online mediation session.
10. Caucus Privacy Failure Protocol. If you are for any reason able to hear communication intended to be private with the other party, please IMMEDIATELY terminate the online mediation session and call Ms. Lawler at XXX-XXX-XXXX.
11. Technology Hiatus. Except for the computer or mobile device upon which you are conducting your online mediation session, please either turn off or silence any phones, tablets, or computers. Please also refrain from the use of social media and/or internet search engines, other than as may be necessary to conduct the session, during your online mediation session.
12. Conduct of Mediation.
 - a. Ms. Lawler conducts a pre-mediation call separately with each counsel prior to the mediation session to discuss the case, facts, issues, procedures, etc. Calls are usually telephonic but can be via Zoom if you prefer. They generally take 20-30 minutes and need to be scheduled directly with the mediator.
 - b. Please log on to the scheduled mediation session no less than 5 minutes in advance of the scheduled start time so that any technology issues can be handled and your mediation session can start on time. You will enter the meeting into a “waiting room”, generally waiting until all parties have arrived to be admitted into the Mediation. After introductions and initial greetings, everyone is then transferred to their group's private breakout room by the mediator. Each room allows for private communication by the persons in that room. At times, counsel and/or counsel and their clients may also meet in one joint room.
 - c. Ms. Lawler typically does not start the mediation with a joint session other than to have the participants “meet and greet” each other but will do so if the parties prefer to hold a joint session before moving into separate breakout rooms. At the very least, the mediator will have the attorneys (including clients if the attorneys would like) meet during the course of the mediation, as appropriate, to clarify facts, discuss or confirm settlement terms or to otherwise communicate directly.
 - d. One of the attorneys should please have a Settlement Agreement, term sheet, MOU or other similar form on their computer to document the agreement, which can be exchanged with other counsel, finalized and signed remotely during the course of the mediation session. If you will want to “share” documents during the course of the mediation, please let Ms. Lawler know in advance so that appropriate “sharing” functions can be in place and available.

Other

13. Mediator is a Neutral and Not Attorney for Any Party. As the mediator, Ms. Lawler is a neutral and 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 counsel. If a party is in pro per, they are advised to consult with counsel. Ms. Lawler is unable to provide legal advice to any party.

14. MC-3 Certification. Your mediator, Jean M. Lawler, has been certified by MC3 based on her mediation training and experience. MC3 is a nonprofit, certification-only organization that combines some of the highest standards in the field for mediator education and training with requirements that the public expects of professionals. As an MC3-Certified Mediator, Ms. Lawler has agreed to abide by the Model Standards of Conduct for Mediators adopted by the American Arbitration Association, the American Bar Association, and the Association for Conflict Resolution and by the Standards of Conduct for Mediators in Court-Connected Mediation Programs adopted by the California Judicial Council. MC3 has established a confidential Grievance Procedure for addressing any reports that an MC3-Certified Mediator has not appropriately followed applicable standards of conduct. The undersigned participants agree that any communications in the course of this mediation, including any that might otherwise be confidential or protected from disclosure based on mediation confidentiality, may be disclosed in an MC3 Grievance Proceeding, for the limited purpose of asserting, defending, investigating, and resolving a report that she did not appropriately follow the applicable standards of conduct. You may contact MC3 at <https://www.mc3certified.org/complaint/> if you are concerned that Ms. Lawler, an MC3-Certified Mediator, has not complied with the applicable standards of conduct. MC3's Grievance Procedure is not intended to serve as a basis for imposing liability on a mediator or for setting aside an agreement reached in mediation.

15. Physical Location of Mediator. Your mediator is physically located in Los Angeles, CA.

16. Fees. Ms. Lawler's fee for this mediation session will be \$ _____, divided equally between the law firms unless other arrangements are requested by counsel. The fee encompasses all preparation time of the mediator (including conducting pre-mediation calls with counsel), ___ hours of session time and reasonable post-mediation telephone calls as needed to finalize a settlement. Fees are due in advance of the scheduled Mediation date and are non-refundable for time that is scheduled but only partially used. Excess session time and further telephonic or video-conference negotiations will be billed at \$_____/hour, unless other arrangements are made.

ACKNOWLEDGED AND AGREED TO THIS _____ DAY OF _____, 2020.

PRINT NAME: _____ SIGNATURE: _____

PRINT NAME: _____ SIGNATURE: _____

PRINT NAME: _____ SIGNATURE: _____

PRINT NAME: _____ SIGNATURE: _____

PRINT NAME: _____ SIGNATURE: _____

Case Name: _____

Case Number: _____

Mediation Date: _____