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## PETER A. MANKIN, MEDIATOR

### MEDIATION PROCEDURES

#### INITIATING MEDIATION

If all parties have already agreed to mediate, call or email me to discuss preferred dates and locations. If you wish our assistance in obtaining the agreement of others to mediate, call or send to us the name, address, and telephone number of the attorney or other representative of each party whose participation is necessary for a comprehensive resolution.

#### PRIOR TO THE MEDIATION

The following issues should be addressed:

1. Parties who must participate in the mediation for productive negotiations to occur.
2. Participants to be present on behalf of each party. It is essential that everyone whose decision is necessary for settlement participates, such as insurance representatives.
3. Information to be exchanged in advance of the mediation session to assist all parties in making realistic settlement decisions during the Mediation.
4. Mediation Statements. Submission of Mediation Statements is optional, but highly recommended. Statements should not exceed ten typed pages (plus exhibits) and should be received by the mediator at least **five days** in advance of the Mediation. Statements are normally exchanged among the parties, but confidential written information may be conveyed to the Mediator only.

## **AT THE MEDIATION**

In most cases, the Mediation will begin with a joint session attended by all participants. I will first introduce myself to the parties and describe the mediation process. Please come prepared to discuss your position during this session. Bear in mind that the goal is not to prove or argue a case but to clarify the issues and your views for decision makers among the other parties while educating the Mediator. Statements or input by the parties themselves is encouraged, but not mandatory. If you have any concerns about having a joint session, I would be happy to discuss them before the mediation commences.

The joint session is usually followed by private confidential meetings ("caucuses") between the Mediator and each party. In caucus, you can discuss information which may assist in working toward a resolution, but which you would prefer not to disclose in direct negotiations. The Mediator will assist all parties in gaining the most balanced possible evaluation of the matter. Strengths and weaknesses of the case will be discussed but in most cases, the Mediator will not give an opinion on the merits of an issue or on the settlement value of the case. Finally, the caucuses provide an opportunity to assess realistic and creative options for resolution, without endangering any party's negotiating posture. Joint sessions may be reconvened at some point in the proceeding.

Caucusing will generally continue until a resolution or plan for further action has been developed which all sides feel is acceptable. At that point, the Mediator will summarize the terms of the settlement agreement or resolution plan. The parties will then typically draft and execute a memorandum stating the key terms of the agreement. It is sometimes useful to bring to the mediation a standard form settlement agreement, leaving the terms of the settlement to be filled in. Some counsel bring their laptops, prepared to draft a customized Settlement Agreement.

## **FOLLOW-UP**

If a resolution is not reached in the initial mediation session, the parties may elect to authorize follow-up. This can consist of telephone caucusing, further investigation or information exchange among the parties, and/or an additional mediation session.

## **CONFIDENTIALITY**

The parties agree that statements made in the course of joint sessions are privileged settlement discussions and agree that any statements made or information disclosed to the Mediator in private caucus is privileged and that disclosure cannot be compelled under any circumstances. All records, reports, or other documents prepared

by the Mediator or submitted to the Mediator in confidence by any party are confidential, and disclosure cannot be compelled under any circumstances.

### **FEES AND COSTS**

Mediation fees are based on an hourly rate for time, including preparation, review, telephone conferencing, mediation and follow-up. There are no additional filing or administrative fees. For mediation sessions conducted outside of our office, the mediation fee will include travel time and expenses. Current rates are \$400.00 per hour, generally divided by the parties. A refundable deposit equal to six to eight hours of time is due **10 days before** the mediation session.

### **DIRECTIONS**

Our new office location is at Hookston Square, 3480 Buskirk Ave., Suite 250, Pleasant Hill, CA 94523, just north of the Walnut Creek border. We are adjacent to I-680, just south of Monument Boulevard and the Crossroads Shopping Center. Coming north or south on I-680, take the Monument Blvd. Exit. Proceed East on Monument and take the first right, Buskirk Ave. After passing the shopping center, proceed straight (Elmira Ln.) into our parking lot. We are within walking distance ( 1 mile) of the Pleasant Hill/Contra Costa Centre BART station. The Contra Costa Connection Bus stops at Hookston Square.