

Lee Jay Berman

Mediator

The Mediation Alliance, Inc.

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MEDIATION POLICIES AND PROCEDURES (Please review carefully)

WHO MUST ATTEND: In order to reach final agreement, all parties, counsel, insurance carriers, and any other decision-makers must be present in person with authority to settle the case (pursuant to California Rules of Court Rule 3.874). All attendees are to clear their calendars for the entire day in order to eliminate interruptions.

DISCOVERY/EXPERTS: All relevant information is to be exchanged by the parties in advance of the mediation session to assist all parties in making realistic, informed settlement decisions during the mediation. Although witnesses are not typically a part of the mediation process, if expert opinion is essential to reach a resolution in this matter, please make arrangements through our office to ensure that all participants concur.

BRIEFS: Preparation of all participants is an integral part of reaching resolution. Participants should be prepared to come with an open mind, ready to analyze new information. Submission of briefs is requested, but such submissions should be no more than ten (10) pages (plus exhibits as necessary). Because of Mr. Berman's travel schedule, briefs should be submitted directly to Mr. Berman at leejay@mediationtools.com with a copy to his case manager at casemanager@mediationtools.com at least two business days in advance of the mediation to guarantee that he receives them in time to adequately prepare. Please include strategic insights about your position, information about perceived obstacles to settlement, and information on prior settlement discussions. Briefs should be shared unless otherwise agreed, so as to allow each party to most fully prepare for a successful mediation. Counsel are encouraged to forward an additional document in any form outlining confidential information for the mediator's eyes only. Time spent reading the briefs will be counted as mediation time.

FEES/PAYMENT: Our policy is payment in full in advance of the mediation session. Any unused portion of a deposit will be refunded promptly. Any additional balance is due within five days of the mediation. All fees are the joint and several liability of each party and their respective legal counsel. Late fees will be assessed on all unpaid balances at the rate of 1½% per month from the date of the mediation. The mediator is entitled to full compensation for all time spent on the case, including preparation, telephone time, and travel to mediation sessions. This includes any time spent (telephonically or otherwise) subsequent to a mediation session in connection with the case. Checks should be made payable to American Arbitration Association in reference to your invoice number.

RESCHEDULING: Any party requiring a change to a confirmed appointment will be charged a *minimum* of a \$750.00 fee. Any confirmed appointment that is cancelled within 21 days of the confirmed date will be charged half of the amount of the time booked.

CONFIDENTIALITY: All statements made in the course of a mediation are confidential (Evidence Code §§ 1115 through 1128). All parties will agree that any statements made or information disclosed to the Mediator is confidential and that disclosure cannot be compelled (Evidence Code § 703.5).

AT THE MEDIATION: The mediation will typically begin with the parties in separate rooms, each having a private conversation with Mr. Berman. At some point, a joint session involving all participants may be appropriate. Please be prepared to summarize your viewpoint and hear other perspectives. The goal is not to prove your case, but to clarify your views for decision-makers among the other parties while educating the mediator. In the private sessions, or caucuses, information can be discussed and creative solutions explored which may assist in working toward a resolution. Mr. Berman will help each party confidentially evaluate their realistic options for resolution. Once negotiations generate an option which all sides feel is acceptable, Mr. Berman will work with counsel to draft a summary of the agreed upon terms.

OBSERVERS: Because Mr. Berman is also the President of the American Institute of Mediation, it is his practice to allow one student to attend each mediation in order to observe a live session. This observer will sign our confidentiality agreement. Should you have any concerns about this, please contact our office at once. We thank you for your cooperation in helping to create a population of strong and experienced future mediators.

PUBLICATION: By agreeing to this mediation session, unless we are notified to the contrary prior to the mediation session, all participants authorize the Mediator to describe this matter to colleagues for educational purposes, and may publish the fact pattern and results of this mediation, provided no disclosure is made of the participants' names or any other information which would specifically identify the participants.

USE OF NAMES: By agreeing to this mediation session, unless we are notified to the contrary prior to the mediation session, all participants authorize the Mediator to add the names of their firms, companies, or organizations to his Client List which he attaches to his resume.