

**MONTEREY COUNTY COURT-DIRECTED MEDIATION PROGRAM  
MEDIATION AND CONFIDENTIALITY AGREEMENT**

This Mediation and Confidentiality Agreement is dated \_\_\_\_\_, and entered into by and between the undersigned parties and MARY-MARGARET BIERBAUM, Attorney at Law, who will serve in the capacity of mediator pursuant to this agreement.

**Applicable Law** - This mediation shall be subject to the terms and conditions of California Evidence Code §§1115-1128, and the terms and conditions of the Monterey County Court-Directed Mediation Program Rules, both of which are incorporated herein by reference as though fully set forth in this mediation agreement.

**Confidentiality** - All statements made in preparation of or during the course of this mediation are privileged settlement discussions, are made without prejudice to any party's legal position, and are undiscoverable and inadmissible for any purpose in any legal, administrative, or other proceeding.

The privileged character of any information is not altered by disclosure to MARY-MARGARET BIERBAUM, the mediator. Neither disclosure of any statements made to the mediator in confidence, nor records, reports or other documents received or prepared by the mediator, can be compelled. The mediator shall not be compelled to disclose or testify in any proceeding of any kind.

**Mediator's Services** – The attorney-mediator's services are offered to the parties on a pro bono (no fee) basis for preparation time and two hours of mediation service. See Attachment A below for a complete description of voluntary fee options after expiration of the pro bono services.

**MEDIATION AGREEMENT  
ATTACHMENT "A"  
PRO BONO SERVICES AND VOLUNTARY FEE STRUCTURE  
MONTEREY COUNTY COURT-DIRECTED MEDIATION PROGRAM**

The Mediation Agreement between (among) the parties and their legal representatives incorporates this Attachment A as an integral component of the Mediation Agreement.

**Pro Bono Mediation** – MARY-MARGARET BIERBAUM is a member of the Monterey County Court-Directed Mediation Program and offers her mediation services for no cost subject to the following terms and conditions:

a. **Preparation time and Scheduling:** Volunteer attorney-mediator (hereafter "Mediator") will offer her time necessary to the preparation of, scheduling, and coordination with the parties and their representatives prior to the commencement of the scheduled mediation session(s) as a component of her participation in the court-directed program;

b. **Mediation Session:** The Mediator offers two (2) hours of her time as volunteer attorney-mediator in working with the parties to reach a voluntary settlement (agreement) in their case. The two hours will commence after the parties have signed the Mediation Agreement and at the time of the Mediator's Opening Statement. The two hours will include any necessary breaks, caucuses, recesses, or other intermittent breaks from the formal mediation session, but will not include meal breaks or recess involving a re-scheduling of the mediation. The Mediator shall maintain accurate time records and those time records shall be determinative in the calculation of accrued mediation time.

**Voluntary Fee Option-** At the expiration of the first two (2) hours of accumulated mediation time, the Mediator may offer to continue the mediation at the rate of \$200/hour to be shared equally by the parties (unless otherwise negotiated to the agreement of all parties and incorporated as a component of the signed mediation agreement). **The election of this option is VOLUNTARY and no party shall be compelled to continue with paid mediation unless subject to the parties' voluntary and signed commitment to such fee schedule.**

a. **Voluntary Waiver by Attorney-Mediator** - The Mediator may waive the imposition of voluntary fee at her discretion and subject to the agreement of the parties to continue in the mediation process. This voluntary waiver is subject to the will of the Mediator and may be offered for a finite and defined period of time (e.g., one more hour, two more hours, etc.)

b. **After Six hours of Voluntary Compensation at \$200/Hour-** After six (6) hours of mediation compensation at the \$200/hour level that has been agreed to by the parties and their attorneys, the Mediator may at her discretion offer to continue the mediation at her regular hourly fee subject to the voluntary agreement of the parties.

**Coordination of Payment of Agreed to Fees After Expiration of Pro-Bono Services.**

Should the parties elect to continue with mediation after the expiration of the *pro bono* preparation and two hour mediation, all such financial agreements shall be recorded by the Mediator in the Mediation Agreement or amendment thereto signed by the parties and their attorneys including the Mediator. Payments shall be made directly to the Mediator and the Court will not oversee the collection of payments. The Court, at its discretion, may postpone trial setting in a case that does not settle in mediation pending full payment of agreed to Mediator fees that remain unpaid.

Signed before the commencement of the mediation by each of the persons whose signatures appear below.

Date:

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MARY-MARGARET BIERBAUM, Mediator

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Signature of Plaintiff:

x \_\_\_\_\_

Signature of Plaintiff's Attorney:

x \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Signature of Defendant:

x \_\_\_\_\_

Signature of Defendant's Attorney:

x \_\_\_\_\_