

AGREEMENT TO MEDIATE

MEDIATION SERVICES: Mediation will be conducted by McLain Mediation Services ("Mediator") in accordance with the following: Texas Civil Practice & Remedies Code, Section 154.001 et seq.; Texas Family Code, Section 6.602, *applies only to family law cases*; and the Texas Supreme Court's Ethical Guidelines for Mediators.

Mediation is a private process in which an impartial person, a mediator, encourages and facilitates communication between parties to a conflict and strives to promote a voluntary settlement. All parties agree that the Mediator will not impose her own judgment or decide any issue for the parties but will attempt to facilitate a voluntary resolution of the dispute by the parties.

MEDIATOR: The parties agree that Linda Meekins McLain will be the Mediator. The Mediator warrants that she has no financial or personal interest in the result of the mediation and that she will serve as an impartial and neutral facilitator of this dispute.

FEES & CANCELLATION POLICY:

Payments MUST be received by 5:00 p.m. seven (7) days prior to the scheduled date of mediation or your case will be removed from the schedule.

Four-Hour Mediations – \$650.00 per party

Eight-Hour Mediations – \$1,300.00 per party

Mediation fees are payable by:

Affinipay Law Pay® online payment platform (link provided on request; we are working to add it to our website for your convenience!)

Attorney's credit card (attorneys may also securely register and keep a credit card on file with Law Pay for this purpose, if desired; contact me for information)

Venmo – please use: @Linda-McLain-3

Cash payment, delivered to my office

Attorney's check

Personal checks from litigants will no longer be accepted for any mediation fees.

Cancellation/Rescheduling Policies:

If you need to cancel or reschedule, please do so before 5:00 p.m. seven (7) days prior to the scheduled date of mediation to avoid any cancellation fee.

If mediation is cancelled ***between "5:00 p.m. seven (7) days prior to the scheduled date of mediation" and "9:00 a.m. three (3) days prior to the scheduled date of mediation,"***

each party will be assessed a cancellation fee equal to one-half of the party's share of the mediation costs for the session which was booked.

If mediation is instead cancelled ***after "9:00 a.m. three (3) days prior to the scheduled date of mediation,"*** each party will be assessed a cancellation fee equal to the party's full share of the mediation costs for the session which was booked.

*Please note that cancellations, unless in the event of a bona fide emergency, require the consent of **both parties and** their counsel of record. Please do not instruct McLain Mediation Services to cancel a booked mediation without discussing and obtaining the other attorney's written consent, with that consent emailed to Gina Harvell, my Scheduling Manager, gina@mclainmediationservices.com. Because both parties will be contractually responsible to pay the cancellation fees, I will not cancel a mediation absent mutual written agreement.*

A cancelled mediation will not be considered for rebooking until all cancellation fees have been remitted.

Additional Time – Any time over the allotted hours will be billed at the rate of \$200.00 per hour per party and is subject to the Mediator's availability. Fees for additional time are due and payable before the party departs from mediation.

AUTHORITY OF REPRESENTATIVES: All parties or their designated party representative(s) shall participate with authority to negotiate and settle the dispute; however, it is understood that no party is required to negotiate against their will. The parties understand that the Mediator will use every effort to facilitate the negotiations of the parties. The parties understand that the Mediator does not warrant or represent that a settlement will result from the mediation process.

NON-LITIGANT PARTICIPATION: Pursuant to policies and in keeping with the Texas Supreme Court's Ethical Guidelines for Mediators, no one other than the parties and their attorneys may attend mediation. There are only three exceptions to this rule: (1) the current spouse of a party; (2) a professional who has been retained as a consultant to advise the client in an area of expertise; and (3) *any other individual whose attendance has been pre-approved in writing with opposing counsel, with the consent of the Mediator.* The rule on non-litigant participation applies equally to mediations conducted in person or remotely by Zoom or similar platform. Notwithstanding the exceptions listed above, the Mediator reserves the absolute right to exclude any person whose presence, in the Mediator's sole discretion, compromises the mediation process.

CONFIDENTIALITY: Any confidential information disclosed to the Mediator in the course of the mediation session shall not be divulged by the Mediator. The mediator shall not permit recordings or transcripts to be made of mediation proceedings. The parties recognize and agree that mediation sessions are settlement negotiations, and that settlement negotiations are inadmissible in court proceedings except to the extent allowed by law. The parties agree not to subpoena or otherwise require the Mediator to testify or produce records, notes, or testimony in any future proceeding. ***Notwithstanding the duty of confidentiality, applicable law requires a mediator to report child abuse or neglect to the appropriate authorities.***

TERMINATION OF MEDIATION SESSION: The mediator shall postpone, recess, or terminate the mediation process if it is apparent to the Mediator that the case is inappropriate for mediation or one or more of the parties is unwilling or unable to participate meaningfully in the process.

LEGAL ADVICE: The parties further recognize that the Mediator will not be providing legal advice for any party or participant in the mediation process. The parties have the right, and are encouraged, to consult with legal counsel regarding their rights and obligations.

RECEIPT OF POLICIES: By each party signing this Agreement to Mediate, he or she acknowledges receipt and review of the policies and procedures (contained in this Agreement and in the Confirmation of Mediation issued in this case) and understands that he or she is charged with knowledge of and bound by all terms, policies, and procedures.]

You case will not be confirmed until you sign and return this Agreement to Mediate. Your signature constitutes your agreement to the terms and policies contained herein.

_____ Date: _____
Petitioner/Plaintiff/Movant

_____ Date: _____
Attorney for Petitioner/Plaintiff/Movant

_____ Date: _____
Respondent/Defendant

_____ Date: _____
Attorney for Respondent/Defendant

Other Appointees:

Court appointees such as Guardians Ad Litem, Attorneys Ad Litem, Amicus Attorneys, and State Agency Representatives are bound by the terms and policies herein, except for the terms pertaining to the fees associated with mediation. Your signature below constitutes your acknowledgment of receipt of my terms and policies.

_____ Date: _____

_____ Date: _____