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GUIDELINES FOR MEDIATION

MEDIATION ...

is a process in which parties to a dispute meet with a neutral person called a mediator, to openly and candidly discuss settlement and negotiate with the goal of resolving the dispute.

THE MEDIATOR ...

is not a judge, nor fact finder, but an impartial person selected by the parties to facilitate a discussion of the issues with a view to find areas of agreement. He or she is usually an attorney who is agreed to by both sides. A settlement or resolution of the dispute can happen only if all parties to the dispute agree to the settlement.

PREPARATION ...

for the mediation is vital to the success of the mediation. The parties should become prepared to talk openly and candidly and in detail about the facts of the case as they perceive them. Be prepared to talk about liability and damages. Documentary information such as medical reports, accident reports, photographs, and the like are helpful to the mediator. Any information you can bring which will assist the mediator in attempting to persuade the other party to your point of view will be helpful, and is encouraged.

ALL PERSONS ...

whose attendance is necessary to settle the matter should be at the mediation. The mediation should not be viewed as just another step in the negotiation process. All parties should come to the mediation with the frame of mind that the matter will be settled on the day of the mediation. Those with the authority to settle the matter should be in attendance. The parties and their representatives should discuss with one another prior to the mediation those persons they intend to bring to the mediation conference.

BRIEFING THE MEDIATOR ...

is essential to a successful mediation conference. Each party should provide the mediator with a pre-conference statement of their position upon the important issues.

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John M. McHenry
Brad Roth

This can be in letter form. Any information you can provide the mediator which will assist in persuading the other party to your point of view should be included. This information should be in the hands of the mediator before the mediation. Settlement history is always helpful.

THE CONFERENCE ...

will take place at a site agreed upon by the parties. The mediator will meet jointly with all parties at the beginning of the conference. Thereafter the mediator will visit separately and confidentially with each party to discuss the strengths and weaknesses of each party's case and the reality and reasonableness of each party's settlement goals. The conference usually lasts between two and four hours.

CONFIDENTIALITY ...

will be respected and maintained by the mediator. Nebraska Statutes provide that communications between the parties and their representatives during the mediation will not be admissible for any later purpose. Neither the mediator or the mediator's notes shall be subject to subpoena or other discovery by any party following the mediation.

FEES AND EXPENSES ...

will be agreed upon prior to the mediation. Generally, each party pays one-half of the mediator's fee.