

**COURT OF SPECIAL APPEALS
ALTERNATIVE DISPUTE RESOLUTION DIVISION
PREHEARING CONFERENCE FOR MEDIATION
MEDIATION AGREEMENT**

Case: _____

Consistent with the Maryland Rules 8-205 and 8-206, the participants in this prehearing conference for mediation agree that:

1. **Self Determination**: Self determination is the fundamental principle of mediation. The participants work together with the impartial mediator(s) to reach their own voluntary, uncoerced agreements. Any party may withdraw from mediation at any time. Any party may request a break to consult with their attorney or other advisor at any time.
2. **Mediator Confidentiality**: With the exceptions noted in paragraph 9 below, all communications with the mediators and the employees or designees of this Court's ADR Division ("designees") whether by speech, writing, or conduct, made as part of this mediation, or any communication made for the purposes of considering, initiating, continuing, reconvening, or evaluating a mediation, are confidential. The mediators and their designees shall not and cannot be made to disclose these communications.
3. **Caucus**: The mediator(s) and their designees may meet privately ("caucus") with some of the participants at any time during the mediation. All communications made during a caucus are confidential as to the participants present in the caucus, and the mediators and their designees may not disclose these communications to any other participant in the mediation except to the extent the participants in the caucus give permission for the mediators to do so.
4. **Party Confidentiality**: With the exceptions noted in paragraph 9 below, all parties, their counsel, and other person(s) present at the mediation at the request of a party, may not disclose or be compelled to disclose any communication, whether by speech, writing, or conduct, made during the mediation in any judicial, administrative or other proceeding.
5. **Otherwise Admissible**: Participants should be aware that mediation communications that are confidential are not subject to discovery, but information that is otherwise admissible or subject to discovery does not become inadmissible or protected from disclosure solely by reason of its use in mediation.
6. **Mediators Communication with Court**: The mediators and designees may communicate to the Court that a mediation has occurred or has terminated, whether required parties have attended and participated in the mediation and have provided information as requested, whether an agreement was reached, and whether further mediation is recommended or the mediation should be terminated. Should the parties request that the court consider a Consent Order, the mediators may disclose whatever information is deemed necessary by the Court to approve, deny, or revise the proposed Consent Order of the parties. The judge considering the Consent Order shall recuse him or herself from the case should it proceed through the appellate process. Staff- and/or Judge-Mediators may disclose information from a mediation regarding mediator performance for performance evaluation purposes.

7. **Subpoena:** The participants agree not to subpoena the members or designees of the ADR Division, or subpoena any documents prepared in the course of or in connection with the ADR Division of the Court of Special Appeals. Any written notes, agreements or other documentation created during or in anticipation of a mediation, including executed agreements of the parties, may be destroyed by the mediators at any time. Parties and counsel are encouraged to retain their own copy of any agreements.

8. **Agreement:** A document signed by the parties that records points of agreement expressed by the parties or that constitutes an agreement reached by the parties as a result of mediation is not confidential unless the parties agree otherwise in writing.

9. **Permitted Disclosures:** Anyone present in the mediation, including the mediator(s), their designee(s), a party and any participant, may disclose or report mediation communications in the following situations:
 - (a) to a potential victim or to the appropriate law enforcement authority to the extent that they reasonably believe the disclosure is necessary to prevent bodily harm or death to the potential victim;
 - (b) to the appropriate authorities if they have reason to believe that a child or a vulnerable adult has been subject to abuse or neglect;
 - (c) to the extent necessary to assert or defend against allegations of mediator misconduct or negligence;
 - (d) to the extent necessary to assert or defend against allegations of professional misconduct or malpractice by a participant to the mediation; and
 - (e) as otherwise required by law.

10. **Maryland Standards of Conduct for Mediators:** The mediators have read and consistent with State law, will abide by the Maryland Standards of Conduct for Mediators.

By signing below, I acknowledge this _____ day of _____, 20____, that I have read, understand and agree to abide by this agreement:

 Mediator

 Mediator

 Party

 Party

 Party's Attorney

 Party's Attorney

 Party

 Party

 Party's Attorney

 Party's Attorney