

WILLIAMS & WILLIAMS MEDIATION

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AGREEMENT TO MEDIATE IN THE OFFICE OF WILLIAMS & WILLIAMS MEDIATION

Confirmation of Mediation Session

The mediation date has been confirmed (verbally or by email) by all parties to occur in the San Jose office of Williams & Williams Mediation. A confirming letter will be sent via facsimile by Williams & Williams Mediation to all parties and will include each party's designated arrival time. The mediators do not begin the mediation session with a joint/all-party meeting. Instead, they will begin the mediation at staggered arrival times. The plaintiff session usually begins first, then, is followed by the defense session, then, by sessions with the intervenors or other third parties. The mediators have found that staggered arrival times are profitable for expediting discussions. However, the mediator may decide, at any time during the mediation session, that it would be more effective to bring some combination of attorneys and clients together for an all-party session in order to move the negotiation forward or to clarify arguments, positions, or points of law.

Required Paperwork

In advance of the mediation session, the mediators ask that you complete the "**Confidential Questionnaire to the Parties on Requested Services of the Mediator**," that is located on our website. Williams & Williams Mediation will fax a hard copy of the Questionnaire, upon request. Providing the mediators with your answers to this Questionnaire will allow you to state precisely your expectations of the mediator and of the process. The last page of the Questionnaire allows you to provide the mediator with confidential information that is not included to the other parties in your brief. You may submit the Confidential Questionnaire at any time after the mediation session has been confirmed or at the time that the mediation brief is submitted, if you prefer.

Mediation briefs should be received by Williams & Williams Mediation via facsimile or postal mail three (3) business days prior to the mediation session. The mediators prefer that briefs are shared with all parties, but will honor requests for the briefs to remain confidential. The mediators will review all materials that are submitted in advance of the mediation, including an outline of positions and the key issues that you feel are in dispute, evidence or any exhibits that you feel would be beneficial to the mediator's understanding and evaluation of this case, its liability and damage issues, any exhibits, including expert and medical reports, deposition transcripts excerpts, police investigative reports, photographs, statements, schematics or diagrams, contracts, business records, etc. The more information that is shared with the mediator and with the other parties, the greater the chance there is to settle the case.

Policies

Conflict of Interest & Confidentiality:

No formal "Waiver of Potential Conflict" document or "Confidentiality Document" will be required for signature prior to the mediation. However, if the mediation goes forward, it is understood that any potential conflict of interest that may come from the mediator's knowledge of or relationship with the parties, attorneys or insurance carriers is fully waived. It is also understood and agreed that the provisions of California Evidence Code §1119 concerning mediations applies to each session of this mediation. **Please sign and return the §1119 Stipulation to our office via facsimile.**

Participation:

These kinds of matters are resolved when the person who has the decision-making authority is present. Therefore, the mediators prefer that your client or, if relevant, your client's insurance claims representative, is present at the mediation. More and more, company representatives seek to be available on telephone standby, in lieu of attending the mediation. A person on telephone standby makes prompt resolution more difficult. Therefore, if a representative makes such a request, the mediators require that the attorney for that company advises all other lawyers and seek their agreement to having the representative being available by telephone standby instead of being physically present at the mediation.

Mediation Fees:

Please review the "Fee Information and Billing Policies" section of the Williams & Williams mediation. All policies regarding the mediator's hourly billing rate, the payment responsibilities of the parties, and cancellation/continuance fee policies are stated in detail. Please contact the Williams & Williams Mediation office with any questions or concerns regarding these policies.

Agreement to Abide by Williams & Williams Mediations' Policies:

The attorneys and parties, by scheduling and receiving a confirmation of a mediation session with Williams & Williams Mediation, are presumed to have read and to have agreed to abide by all policies, as stated in the "Agreement to Mediate" and on the Williams & Williams Mediation website. If an attorney/party feels that the terms and policies required to contract with and confirm that Williams & Williams Mediation will conduct a mediation session are not clearly reflected in either this "Agreement to Mediate" or on the Williams & Williams Mediation website, that attorney will contact the mediator and all participants in writing or, by not doing so, acknowledge and accept the terms as set forth. If you have any questions, please do not hesitate to contact Williams & Williams Mediation.

Please acknowledge that you have agreed to participate in a mediation session conducted by Williams & Williams Mediation and that you have read the policies as stated in this "Agreement to Mediate" and on the Williams & Williams Mediation Website. Please submit via facsimile or postal mail no later than three (3) business days prior to the mediation session.

Name – please print

Signature

Date:

Attorney for: _____ Case Name: _____