

Case Number _____

Caption: _____

**COLUMBIA JUDICIAL CIRCUIT
GUIDELINES FOR ONLINE MEDIATION
SUPERIOR, PROBATE and MAGISTRATE COURTS**

The parties have agreed to participate in online mediation under the following guidelines:

1. The parties understand that the purpose of mediation is to work together to find a mutually acceptable resolution of the issues. To achieve a mutually acceptable resolution, the mediator and the parties and their attorneys agree to work cooperatively to ensure that each party understands the factual issues, the effects of any agreement reached, and any possible consequences of not reaching an agreement. The mediator will lead negotiations to assist in developing a settlement that is acceptable to the parties. The mediator does not make decisions for the parties.
2. The parties agree to use an online platform for the mediation session. Parties understand that the mediator uses [online program (e.g. Zoom Pro, WebEx, Microsoft Teams, Legaler)], which is an online platform, to conduct the online mediation session(s). Parties agree that they will download and install the software from [program website] and establish a free account, if necessary, to participate in the online mediation session(s). The parties agree to familiarize themselves with the operation of the [online program] platform so that they are able to operate the system and participate in the online mediation session(s).
3. The parties agree to be respectful in all communication, allowing each participant to finish his/her comment or statement before responding. The online format may amplify and exaggerate sound so maintaining a regular speaking voice is important. In addition, please remember that the camera does not always transmit hand gestures or non-verbal cues, so it is important to verbalize all communication during an online mediation session. Parties further agree to conduct the mediation in a quiet location and agree to mute their microphone when not speaking in an effort to eliminate any disruption from background noises.
4. For mediation to be successful, open and honest communication, negotiations, and statements are essential. By signing this, the parties agree to make an accurate disclosure of all matters relevant to the process of settlement. This includes providing each party and the mediator with all information relevant to the process of settlement, which would be available in the discovery process in a legal proceeding. If a party deliberately withholds information or supplies false information relevant to the settlement, the agreement reached in mediation may be set aside. Materials, which are otherwise discoverable, are not rendered immune from discovery by use in mediation.
5. Parties understand that the mediator uses [document sharing program (e.g. Dropbox, Google docs, OneDrive)] as an online platform for storing and transmitting any documents and information relative to the online mediation process. Parties affirm that they have downloaded the required software and established a free [document sharing account type]

(i.e. free, personal)] account, if necessary, to use the program. Parties agree to utilize [document sharing program] to send and receive all documents relative to the online mediation process.

6. Parties understand that the mediator uses [document execution program (e.g. DocuSign, Formstack, Adobe)] as an online platform for obtaining signatures in the execution of documents required during the mediation process. Parties affirm they have created an account with [document execution program], if necessary, to utilize the service. In the event that parties have chosen not to use [document execution program] for the execution of documents, or in those instances when original signatures are required, then parties will receive copies for printing and signing and will be responsible for returning the executed copies to the mediator via mail or overnight delivery service.
7. Information gathered in the mediation process is confidential and privileged. By their signatures below, all parties acknowledge their understanding that there is always some inherent risk when confidential information is conveyed via telecommunication platforms, including but not limited to, virtual conferencing services, email services, and telephone calls. All communications, in person and virtual, by the parties shall be treated as strictly confidential by the mediator and the parties, including emails, chat and text messages, notes, telephone calls and all other communications. The mediator has taken reasonable steps to provide a confidential and secure virtual environment, and all parties are affirming that they are alone in the room and cannot be overheard while participating. No additional persons shall participate in the mediation process except for the mediator and the parties and their attorneys (e.g. no new partners, grandparents, etc.) unless both parties and the mediator agree to include such person(s) and such person(s) sign this document. The presence of any and all persons participating in and/or listening to the mediation session must be disclosed to and approved in advance by the mediator. The mediator will not disclose any information learned during the mediation without the express permission of the parties. Confidential matters disclosed in a private meeting with one party will not be divulged to the other party without the verbal consent of the party making the disclosure. Parties agree not to record any portion of a mediation session, even those taking place in a private meeting (caucus). The parties also acknowledge by their signatures below that they will preserve the confidentiality of a mediation session, even if the confidentiality of a portion or all a mediation session is breached due to technical failure or for any other reason.
8. For those times when the mediator needs to speak with each party individually (“caucus”), the mediator may place you in a separate breakout room so your conversation will not be heard by the other party(ies). In the event you are able, for any reason, to hear the communication intended to be private with the other party(ies), you agree to IMMEDIATELY terminate participation in the online mediation session and call in to your mediator at [XXX-XXX-XXXX].
9. Parties acknowledge they have a strong and secure WiFi or ethernet (hard-wired) connection for their computer. Parties further affirm that they are not on a public WiFi connection.
10. Nothing in these guidelines shall be construed to prevent or excuse the mediator from reporting situations in which a) there are threats of imminent violence to self or others; or b) the mediator believes that a child is being abused or that the safety of any party or third person is in danger.

11. It is expressly understood by the parties that the mediator does not offer legal or financial advice in this mediation and is not functioning as an attorney or in another professional capacity, whether or not the mediator is in fact an attorney or other professional. The mediator's role is to aid the parties in seeking a fair agreement in accordance with their respective interest. The construction of a proposed agreement and any question of law should be referred by the parties to their own legal counsel. All parties are encouraged to have an independent attorney look over any completed agreements. A completed stipulation form will incorporate all issues agreed upon. All parties further agree that, unless and until an agreement/memorandum of understanding is reduced to writing AND signed by all parties present, it is not final and binding on the parties.
12. The mediator is not liable for any statements or decisions made during the course of the mediation. Any written agreement is the agreement of the parties reached at the mediation. The mediator in a court program shall not be held liable for civil damages for any statement, action, omission, or decision made in the course of the mediation process unless that statement, action, omission, or decision is (1) grossly negligent and made with malice, or (2) is in willful disregard of the safety or property of any party to the mediation process.
13. Parties acknowledge that, even where participation in mediation is mandated by the court, a settlement is not required, and the mediation can be terminated at any time by the mediator or the parties. However, the court does require the parties to participate in good faith in the mediation process, and the parties acknowledge their willingness to participate in the process in good faith and to genuinely attempt to resolve their dispute. All parties with the capacity to settle and necessary for settlement MUST attend the online mediation session. If the parties do not come to an agreement on one or more of the issues, the parties understand that the case will proceed in regular fashion through the court process with the assigned judge. If the parties are successful in reaching an agreement through mediation, the written and executed agreement shall be [insert applicable court process for submitting agreements to the judge].
14. In the event that there is a subsequent adversarial action, either initiated or continued, following the mediation process, parties agree not to call as a witness or subpoena the mediator nor any agents or employees of the [firm or program] regarding this mediation.. Likewise, the parties will not subpoena or seek discovery of any documents developed for or utilized in the course of this mediation.
15. Parties understand that payment of the mediator shall be made at the time services are rendered. Fees will accrue at the rate of \$[hourly/daily rate]. Parties understand that all payments due will be processed electronically and that the mediator uses [payment software website link (e.g. Venmo, PayPal, Zelle)] to process all electronic financial payments. There will be no charge to parties in magistrate court cases, cases in which a party is to be determined to be indigent or in such other cases as the referring judge determines that fees should be waived. In these cases, the mediator's fee will be paid by the program as stated in the Columbia Judicial Circuit Alternative Dispute Resolution Program rules.
16. Parties acknowledge that, by their participation, they affirm that they have the capacity to conduct good-faith negotiations and to make decisions for themselves, including a decision

to terminate the mediation if necessary.

- Parties understand that, despite all best efforts, there may be interruption with technology that is beyond the control of the mediator and parties. If your connection to the meeting is interrupted, please attempt to log in again. If you are unable to log back in, please call your mediator at [XXX-XXX-XXXX]. If the technology issues cannot be resolved in reasonable time, the online mediation session will be canceled and rescheduled as soon as possible.

I HAVE READ AND UNDERSTAND the above guidelines for online mediation for all matters relevant to the process of settlement.

_____ Signature	_____ Date
_____ Party/Counsel*	_____ Date
_____ Signature	_____ Date
_____ Party/Counsel*	_____ Date
_____ Signature	_____ Date
_____ Party/Counsel*	_____ Date
_____ Signature	_____ Date
_____ Party/Counsel*	_____ Date

***Signature of counsel is only necessary if counsel is present.**