

Mediation + Plus

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Mediation Fees and Related Policies

Introduction

All of our mediation services are provided subject to the following terms and conditions, and by retaining us parties to mediation, and their respective legal counsel and other representatives, agree to them:

Fees

Our mediations are conducted and billed for on either a flat fee or hourly fee basis, depending upon the nature of the matter. Either may be chosen, as long as this choice is made at the time the mediation is scheduled, and we agree. Please contact us to discuss whether a matter is appropriate for a flat fee or hourly rate, or eligible for consideration as a pro bono mediation.

Although the parties may agree to divide this fee between them in whatever manner they see fit, all parties remain jointly and severally responsible for payment of their proportionate equal share until paid in full.

We do not charge any administrative or other similar fee, or for *ordinary and incidental* expenses such as telephone, facsimile, postage or related expenses. However, we do reserve the right to include such charges when expenses exceed what we consider to be *ordinary and incidental* (for example, where we initiate multi-party telephone conferences using the services of an outside vendor, or where there are extraordinary administrative requirements, as sometimes occur in complex, multi-party, or multi-day mediations). Any expense beyond *ordinary and incidental* will be passed on to the parties at cost.

We reserve the right to adjust our fees and other practices without notice. Any such adjustments are at our sole discretion, but parties will be advised of them in advance.

Flat Fee Mediations

Most of our mediations are conducted on a flat fee basis. **Our current flat fee for a full day mediation session is \$4,750.00.** If a mediation scheduled for a full day settles after four hours or less in actual session, we will charge the parties a flat fee of \$3,000.00 for the half day session and time spent in basic preparation. The balance of any deposit will be promptly refunded.

We believe a flat fee provides a significant advantage to both the parties and the mediator. It allows the mediator to spend the additional time that may be needed, both *before* and *after* the mediation session, to help bring about a successful resolution, but without the parties or the mediator being concerned about incurring additional fees.

What Our Flat Fee Includes

Our full day mediation fee *includes all ordinary and incidental time and expenses* spent in:

- Case administration;
- Basic preparation by the mediator, including review of mediation briefs and related materials, up to a maximum of three (3) hours;
- Basic telephone conferences with the parties, as necessary;
- Local travel within San Francisco, the Peninsula, and Silicon Valley, if any;
- A full day mediation session, consisting of up to ten (10) hours of actual mediation on the day in which the session commences; and
- Follow-up with the parties, when appropriate.

Any time spent beyond *ordinary and incidental* is subject to an additional fee of \$495.00 per hour. This specifically includes time spent working with the parties on discovery or related disputes. Any expense beyond *ordinary and incidental* will be passed on to the parties at cost. Charges for additional time spent or other expenses incurred, exceeding the amount of any deposit, will be billed separately and are due and payable upon receipt.

Hourly Rate Mediations

We charge an hourly rate in those circumstances where a flat fee is impractical, such as with complex, multi-party, or multi-day mediations; or when mediation services are provided in connection with discovery or other pre-mediation meetings or issues; or when time spent is beyond *ordinary and incidental*. **Our current hourly rate for mediation is \$495.00.** Any expenses are in addition, and will be passed on to the parties at cost.

Reservation Deposits

Unless other arrangements have been made with us, a refundable deposit, equivalent to the fee for the entire time reserved for mediation, must be received not later than ten (10) days after a date is agreed upon for mediation. If a date agreed upon for mediation is within ten (10) days or less, the deposit is immediately due and payable.

(PLEASE NOTE: Generally, we are unable to send “reminders” about overdue deposits. If a deposit is not received when required, then the date reserved is not marked as confirmed on our calendar, and is subject to being reassigned for another mediation.)

Cancellations or Continuances

Scheduling is important to the effective management of our practice and enables us to provide timely mediation services to others. Consequently, we ask that you advise us promptly of any developments that may result in the cancellation or continuance of your matter, as well as developments that may result in less time being needed for a session than reserved (*e.g.*, a party settling out). This helps us schedule matters efficiently, and avoid having to charge for cancellations or rescheduling except in limited circumstances.

By retaining our services, parties and their counsel hereby agree to the following:

- Cancellations or continuances occurring ten (10) days or more before a mediation is scheduled to begin are without charge of any kind.
- Cancellations or continuances occurring less than ten (10) days, and more than seventy-two (72) hours, before a mediation is scheduled to begin, will result in a nominal charge equivalent to two hours at our hourly rate to cover the cost of preparation by the mediator and any miscellaneous expenses, **plus** any time spent in connection with discovery or other pre-mediation meetings or issues (if any).
- Short-notice cancellations or continuances, occurring seventy-two (72) hours or less before a mediation is scheduled to begin, will result in a charge equivalent to the entire amount of time reserved for the session, **plus** any time spent in connection with discovery or other pre-mediation meetings or issues (if any).
- At our discretion, we also reserve the right to establish other requirements regarding cancellations or continuances in appropriate circumstances. This typically applies to complex, multi-party, or multi-day mediations. Parties and their counsel will be advised of any such requirements in advance.

Confidentiality

Mediation is confidential, and its success often depends upon that fact. This means, among other things, that parties and their representatives understand and agree:

1. Mediation and all related activities are confidential to the fullest extent permitted by the laws and/or rules of court which govern their dispute. It is important that counsel explain, and clients understand, what is required by confidentiality, and its limitations. If a case is pending in a California state court see Evidence Code §§ 1115-1128. In other jurisdictions similar confidentiality provisions may apply (see, e.g., U.S. District Court for the Northern District of California, ADR Local Rule 6-12).
2. When all mediation efforts are concluded all of the notes and other writings (as the word "writing" is defined by California Evidence Code §250, and "writings" by Federal Rules of Evidence §1001(1)) maintained by the mediator will be destroyed without notice to the parties or their counsel (or other representatives).
3. The parties or their counsel (or other representatives) will not attempt in any way, or assist others, to compel the mediator to testify, produce documents, or provide other evidence in any forum or proceeding. ***Any party violating this provision hereby agrees to indemnify and hold the mediator harmless from any and all attorneys' fees, legal costs, and other expenses, of whatever kind or nature, including but not limited to the time and expense spent by the mediator in resisting such efforts, at mediator's then current hourly rate.***

Additional Policies

By retaining our services, parties and their counsel also hereby agree to the following:

- Litigation Solutions Law Group and the mediator act solely for the purpose of mediating a dispute by facilitating settlement discussions and negotiations between the parties, and assisting them in reaching a voluntary and timely resolution.

- Throughout the mediation process the mediator acts only as a *guide* and not a judge, and does not decide the case or dictate a particular resolution. The parties decide whether to resolve their dispute and how best to do that.
- Under no circumstance does Litigation Solutions Law Group or the mediator act as lawyers for, or representatives of, any party during the course of mediation, and do not provide legal or any other advice, in any form, to any party or party representative. In the event any party or party representative desires legal or any other form of advice they must consult with lawyers and other persons of their own choosing, and not Litigation Solutions Law Group or the mediator.
- Litigation Solutions Law Group and the mediator also reserve the right to adjust their fees and other practices without notice, as circumstances warrant. Any such charges or adjustments are at their sole discretion.

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