
Steve McBride LLC

Elder Care Mediation

MEDIATION AGREEMENT

This is an agreement between all the undersigned parties (hereafter referred to as "the parties"), and Steve McBride LLC and the assigned mediator(s) (hereafter referred to as "the mediator").

The parties have agreed to engage Steve McBride LLC to act as Mediator to assist them in reaching an agreement of their issues.

The provisions of this agreement for mediation services are as follows:

- 1) **Role of the Mediator.** The mediator is a neutral facilitator who will assist the parties to reach their own settlement.
- 2) **Conflict of Interest.** The parties understand that the mediator is not aware of any conflicts of interest that would keep him from being impartial. If any information arises which leads the mediator to believe that there is a potential conflict of interest, this will be discussed with the parties immediately. If either party believes that a conflict has arisen, they should bring this to the attention of the other party and the mediator and the other party as soon as possible.
- 3) **Outside Advisers.** The mediator may suggest options and/or outside resources to enable the parties to make informed decisions. The mediator will not represent the interests of any party. Parties are welcome to bring outside experts and attorneys to mediation with the consent of the other parties.
- 4) **Not Legal Advice.** The mediator does not offer legal advice or legal counsel but may provide information about legal issues. Each party may be advised to retain counsel in order to be properly advised about their legal rights, interests, and obligations as well as the legal implications of their agreement.
- 5) **Confidentiality.** All written and oral communication made in the course of mediation will be treated as confidential pursuant to the Colorado Dispute Resolution Act, CRS 13-22-301. This includes all oral and written information received by the mediator(s) prior to the signing of this document. Therefore, the parties agree that they will not at any time call the mediator(s) as witnesses in any legal or administrative proceeding concerning the dispute.
 - a) The parties agree not to subpoena nor call for the production of any records, notes, or work products of the mediators in any legal or administrative proceeding that arises before, during, or after the mediation of this dispute.
 - b) The mediators will not reveal anything discussed in mediation without the consent of all parties, including the mediators. The exceptions to this are if there is suspicion of child or elder abuse (emotional, financial, sexual) or neglect, if there is a threat or concern about physical injury to either party, or if there is knowledge that either party intends to commit a felony.
- 6) **Written Agreements.**
 - a) Agreements made in mediation will be written by the mediators as a Memorandum of Understanding ("MOU"). Any written agreement made and signed by the parties as a result of mediation may be used in any relevant proceedings unless the agreement specifically provides to the contrary. These written agreements will be released only with the consent of all parties.
 - b) All parties recognize that any agreements memorialized in writing and signed by the parties as a result of this mediation will be legally binding. The parties agree that they will not rely upon any draft documents produced by the mediator, and the parties release the mediator from any and all responsibility arising from the drafting of any Memorandum of Understanding, settlement

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agreement, stipulation, or any other document drafted or prepared for Court or used for settlement negotiations. Each party is advised to review this with her/his own counsel before the agreement is placed in final form and signed.

- 7) **Mediation is a voluntary process.** It is understood that any party or the mediators may terminate the proceedings at any point. If the mediation process is to be terminated prior to reaching an agreement, the mediators will encourage the parties to express their concerns about the process and to spend some time in session to reach some closure and discuss next steps.
- 8) **Full disclosure.** It is understood that full disclosure of all relevant and pertinent information is essential to the mediation process. The parties agree to fully disclose any and all information requested by any of the parties and/or the mediators. This includes all relevant documents and information including any information and documentation that would normally be available through the discovery process for a legal proceeding. If any party fails to make such full disclosure, then the mediators may withdraw from the case or the agreement reached in mediation may be set aside in a legal proceeding. The parties have been advised through this document that even if there are no legal issues involved, lack of full disclosure about any issue being discussed can hinder the mediation process.
- 9) **Good Faith, Communications, Lack of Coercion.** The parties agree to negotiate in good faith, which means that they will be open and honest in their communication with the mediators and the other parties. The parties are advised not to make any agreements that they do not intend to follow. Should any party feel pressured or coerced to make an agreement, they have the right not to make agreements under those conditions and may discuss feeling pressured with the mediators either in caucus or joint session.
- 10) **Communication with parties and attorneys.** It is understood and agreed to that the Mediator may contact any of the Parties or talk with any of the Parties' attorneys without the other parties or their attorney in attendance.
- 11) **Email Communication.** we may communicate with you or others via e-mail transmission. As e-mails can be intercepted and read, disclosed, or otherwise used or communicated by an unintended third party or may not be delivered to each of the parties to whom they are directed and only to such parties, we cannot guarantee or warrant that e-mails from us will be properly delivered and read only by the addressee. Therefore, we specifically disclaim and waive any liability or responsibility whatsoever for interception or unintentional disclosure or communication of e-mail transmissions, or for the unauthorized use or failed delivery of e-mails transmitted by us in connection with the performance of this engagement. In that regard, you agree that we shall have no liability for any loss or damage to any person or entity, resulting from the use of e-mail transmissions, including any consequential, incidental, direct or indirect, or special damages, such as loss of sales or anticipated profits or disclosure or communication of confidential or proprietary information.
- 12) **Payment and Cancellation of Appointments.** The parties agree to share the cost of mediation according to the terms of the fee agreement furnished by the mediators. The parties have been advised that payment is due at the time service is provided or by retainer agreed to in advance. Should it become necessary to cancel an appointment, the parties agree to give the mediators at least 72 hours notice prior to the time of the appointment to be canceled. The parties have been advised that failure to give proper notice will result in being charged the hourly rate for the full appointment time and agree to pay such charges pursuant to the fee agreement unless other specific arrangements have been made.
- 13) **Mediation is not Therapy.** The parties are advised that mediation is not psychotherapy or counseling and that mediation is in no way intended to be a substitute for the psychotherapy or counseling process.

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14) Conclusion. The parties have read, understand, and agree to the provisions of this agreement for mediation services. By signing this, the parties understand that they are agreeing to participate in the mediation process as described in this document and are not relinquishing any of their legal rights.

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Steve McBride, for Steve McBride LLC		Date
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