

BLACK-GOLD ASSOCIATES LLC

Arbitration and Mediation Services

www.black-gold.com



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ARBITRATOR - MEDIATOR - ADMINISTRATIVE LAW JUDGE (Ret.)

Thank you for considering Black-Gold Associates and/or Howard T. Spence to assist you with resolving your workplace or business dispute(s) utilizing Alternative Dispute Resolution (ADR) techniques and processes. We look forward to working with you and other parties involved in your case to achieve resolutions which are both fair and lawful.

The purpose of this flyer is to provide some information relating to mediation procedures typically utilized by Black-Gold Associates so that you may be better prepared to participate in this ADR procedure in an efficient manner. Hopefully the information in this flyer will give all parties additional helpful information about how ADR proceedings in this case will occur.

Before coming to the mediation conference, take some time to carefully review ALL communications and correspondence from the mediator and/or mediation service, and also all information and pleadings you may have previously received from the other party(ies) to this proceeding. If you anticipate any discussion of issues relating to either damages or remedies as the result of this mediation, please make sure to think about your resolution objectives prior to the day of the mediation. Bring along any documentation or proof that you believe supports your positions or expectations in that regard. It also is a good idea to make sure you are fully familiar with the contents of any court related files or complaint files prior to the day of mediation.

The mediation service offered by Black-Gold Associates is most often "facilitative" mediation. The objective of our mediation service is to assist the parties to come to a resolution which is fair and acceptable to the parties. Compared to an arbitration proceeding or a proceeding in a court, parties to a successful mediation have a greater degree of control over outcomes related to disputes in which they are involved.

In facilitative mediation, the mediator will not recommend outcomes or settlements. Parties should make sure that they bring representatives to the mediation who are authorized to make final and binding decisions on behalf of the party. Parties should sincerely commit to good faith discussion and negotiation with the end objective of coming to an agreement which will finally conclude the dispute or controversy. Remember that any documents or exhibits you wish to share with the other party(ies) should be copied in sufficient numbers so that the mediator and the other party(ies) may have their own copies to work with during the mediation session.

MEDIATION CONFERENCES

The mediations which are assisted by Black-Gold Associates, LLC are facilitative mediations. This is the type of mediation where the mediator does not make judgments about the merits of the positions of the parties to the mediation, but rather spends time and effort to get the parties to share information and concerns which will help the parties to better evaluate their cases, and to make their own judgments about what outcomes are likely, possible, or desirable to end ongoing disputes. As a facilitator in mediation, your mediator will not recommend the acceptance or rejection of any proposal that may be offered during the mediation. While the mediator may have some expertise in the subject area of your dispute, the mediator is not here to use that expertise to cause you to accept or reject any proposal.

MEDIATION DETAILS AND INFORMATION ARE CONFIDENTIAL, AND ALL PARTIES MUST AGREE TO CONFIDENTIALITY AND EXECUTE CONFIDENTIALITY STATEMENTS BEFORE THE MEDIATION BEGINS. THE MEDIATOR WILL NOT RETAIN NOTES, NOR TESTIFY ABOUT ANY ASPECT OF THE MEDIATION PROCEEDING IN ANY OUTSIDE FORUM, LAWSUIT, OR DISCUSSION.

PLEASE CLEAR YOUR CALENDARS FOR THE ENTIRE DAY OF THE MEDIATION. ALSO, IF REPRESENTED BY ATTORNEYS, PLEASE MAKE SURE THAT ALL PERSONS NECESSARY TO COME TO AN AGREEMENT ON THE DAY OF MEDIATION ARE PRESENT AT THE MEDIATION, OR AT LEAST ACCESSIBLE BY TELEPHONE. IT IS ALSO HELPFUL TO BRING ALONG PRE-PREPARED COPIES OF ANY STANDARD SETTLEMENT FORMS, RELEASES, AND DISCLAIMERS THAT WOULD BE USED IF A NEGOTIATED SETTLEMENT AGREEMENT IS REACHED.



Mediation will only be successful if all parties to the mediation agree to present good faith efforts to resolve their differences. Some parties are in mediation because they are ordered to such procedures in ADR by a court or an administrative agency. Others are in mediation because they are in a contractual relationship which mandates such procedures. Some parties are in mediation because they just want help by an outside party or agency to "think through" a situation and come to an agreement which is in their best interests. No matter what caused you to seek mediation, hopefully you will be sincere and open minded when it comes to information presented and possible resolutions discussed.

A pre-mediation conference may be scheduled by the mediator. If a pre-mediation conference is to occur, a copy of the pre-mediation conference agenda is provided to the parties. Parties should be familiar with their complaints and facts relating to their dispute. There may be the need for some pre-mediation exchange of documents and/or evidence. If parties to the mediation are represented by attorneys, written mediation summaries are helpful, and may be requested by the mediator. It is helpful if parties come with an idea of what they hope to achieve in settlement or mediation discussions. It is also helpful if there is a rationale thought out before hand which can be shared with other parties to support any expected or requested relief.

Not all mediations end successfully with the parties agreeing to a resolution -- but many do. The mediator in your case is committed to assisting you to achieve a resolution to your dispute if at all possible. But remember -- it must be YOUR resolution. Resolutions or mediation agreements are signed by the parties, and are enforceable in the courts if necessary. Good luck with your mediation. Hopefully it will be a good and rewarding experience for you!

