

**LAWRENCE J. DAY
Mediator & Attorney
1594 Kings Carriage
Grand Blanc, MI 48439**

(810) 603-3400

AGREEMENT FOR MEDIATION
(Flat Rate Per Counsel and/or Pro Per Party)

UPON THE AGREEMENT OF THE UNDERSIGNED a mediation hearing will be held on _____.

IT IS UNDERSTOOD AND AGREED by the undersigned that the process they are entering into is defined by MCR 2.411(A)(2) as follows:

“Mediation” is a process in which a neutral third party facilitates communication between parties, assists in identifying issues, and helps explore solutions to promote a mutually acceptable settlement. A mediator has no authoritative decision-making power.

IT IS UNDERSTOOD AND AGREED a key element to the success of the mediation process is that all **“interested parties”** must attend the mediation hearing. This provision will be deemed to have been complied with by a party if the following persons are physically present at the mediation hearing:

- (1) The Party; and
- (2) If represented, the party’s counsel; and
- (3) Representative(s) from the insurance carrier(s) for any insured party(ies) having full authority to settle up to the amount of the last demand or policy limits, whichever is less, without further consultation; and
- (4) All persons and/or entities that have asserted liens or are otherwise essential to the disposition of the matter.

IT IS UNDERSTOOD AND AGREED that counsel for each party shall present a short written summary to the mediator seven (7) days prior to the mediation hearing.

IT IS UNDERSTOOD AND AGREED that the Mediator may conduct short, private meetings separately with each side. Such meetings, referred to as “caucuses,” often take place after the initial joint session. Caucus is an important aspect to the negotiation process. It provides a setting where parties can be more candid with the Mediator than they might otherwise be in front of their adversaries. Comments made in caucus are **confidential** and will not be revealed by the Mediator, and/or any agreed upon Mediation Trainee/Observer, to any person not present for the caucus without express permission to do so.

IT IS UNDERSTOOD AND AGREED that all mediation sessions (joint sessions, caucuses, etc.) are settlement negotiations that are not admissible in subsequent legal proceedings pursuant to Rule 408 of the Michigan Rules of Evidence and Michigan Court Rule 2.411(C)(5). **All Parties and Counsel agree that any settlement demands and/or offers are confidential and shall not be disclosed in any subsequent settlement conferences, case evaluations, arbitrations and/or court proceedings.** Moreover, the parties agree they are contractually bound by this Agreement not to subpoena the Mediator and/or Mediation Trainee/Observers and/or or their notes, records or memos, etc.

IT IS AGREED the fee for a Mediation lasting five hours *or less* shall be on a flat rate basis of **\$850 per Counsel and/or Pro Per Party, payable to LAWRENCE J. DAY, P.C. (Tax I.D. #38-2278860 in advance, prior to the day of the Mediation Hearing.** This flat fee includes everything pertaining to Mediation Hearings lasting up to 5 hours (i.e. telephone calls, scheduling, driving time, if applicable, up to 65 miles each way, reading, preparation for and attendance at Mediation and filing a Status Report with the Court, if applicable). Payment of mediation fees is the obligation of Counsel who may then seek reimbursement from their clients. **The advance payment is refundable without penalty if the Mediation is cancelled or adjourned.**

Dated: _____

Dated: _____

Dated: _____

Dated: _____

Dated: _____

Dated: _____

LAWRENCE J. DAY, P.C., MEDIATOR