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FEES FOR MEDIATION SERVICES

- 1. **Mediator's Objective.** It is our objective to provide mediated dispute resolution services at an appropriate cost to the parties involved in, or about to become involved in, litigation. In most cases, the Mediation Fee Schedule shown below sets forth our fee for mediation services.
- 2. **Services Provided.** The Mediation Fee covers the cost of one full day mediation session, usually in our offices, and includes scheduling and administration of the mediation, a working lunch, and appropriate telephone or in person conferences with counsel and/or the parties before and, if necessary, after the mediation session.
- 3. **Amount of Fee.** The amount of the Mediation Fee usually will be determined by (a) the amount in controversy, which is the aggregate amount of all claims for affirmative relief, typically excluding exemplary damages; (b) the nature of the action and the complexity of the issues; and (c) the number of parties, which is computed by counting all parties represented by the same attorney as one party for purposes of calculating the Mediation Fee.
- 4. **Mediation Fee Schedule.** The total Mediation Fee is composed of a Daily Mediation Session Fee payable by each party:

**FEE GUIDELINES FOR A FULL-DAY MEDIATION SESSION
PER PARTY**

Amount in Controversy	2 parties Fee per day per party	3 or more parties Fee per day per party
Up to \$1,000,000	\$ 2,500	\$ 2,000
\$1,000,000 - \$ 5,000,000	\$ 3,250	\$ 2,500
\$5,000,000 - \$10,000,000	\$ 4,000	\$ 3,000
When the amount in controversy is over \$10,000,000 or there are substantial non-monetary issues or other special circumstances, the mediation fee will be determined on a case by case basis.		

- 5. **Exceptions to Fee Schedule.** In cases where substantial non-monetary relief is sought (injunctive or declaratory relief, specific performance, etc.), the fee will be set by the mediator based upon the nature and dynamics of the case. In cases where **both** the mediator and counsel have determined that a one-half day session is appropriate, the Mediation Fee for one-half day is typically \$1,500 *per party*, although in unusual circumstances or at a Court's specific request, that fee may be adjusted. In some complex, multi-party disputes, which are anticipated to require multiple mediation sessions or substantial preparation or other special circumstances, the Mediation Fee will be determined in advance by the Mediator and the parties or their counsel.
- 6. **Apportionment of Fee.** Since the total Mediation Fee usually will be shared equally by all participating parties, the Mediation Fees are stated as a flat fee *per party* for each day of mediation. Of course, it is acceptable for the parties to agree for one party to advance or even pay the Mediation Fee on behalf of another party. In court-annexed mediation, the full amount of the Mediation Fee will normally be taxed as costs of court, unless the parties mutually agree otherwise.

7. **Time & Duration of Sessions.** Mediation sessions typically commence at 9:30 a.m. and continue until completed. While most sessions conclude by 6:00 p.m., we will be committed to work on the case throughout the evening, if necessary. We strongly discourage the scheduling of one-half day mediations. In our experience, one-half day is not sufficient time for the process to work in most cases. However, after reviewing the case with counsel for the parties, if we determine that a case (a) appears likely to be fully settled with only a half-day of mediation, (b) involves only two parties, (c) typically involves less than \$50,000 in controversy, and (d) involves relatively straightforward issues, then the mediation session instead may commence at 1:30 p.m. and end at approximately 6:00 p.m. or may commence in the morning and end at approximately 1:30 p.m.

8. **Rescheduling and Cancellation Fee Policy.** When a mediation is scheduled, we commit the full day to the scheduled matter, and consequently turn away other parties who would have scheduled a mediation that day. Thus, when a mediation is cancelled or rescheduled, particularly on short notice, the result is a lost day of productivity. Accordingly, we have instituted the following cancellation policy.

There will be no cancellation fee for mediations cancelled/rescheduled 10 or more business days (2 calendar weeks) in advance of the scheduled mediation date. In the event of a cancellation on less than 10 business days, the cancellation fee below will apply.

If we are able to rebook the date for another mediation, there will be no cancellation fee. If we are unable to rebook the date, a cancellation fee in the amount of 50% of the total mediation fee will be due and payable by the parties. If the parties agree upon the cancellation/rescheduling, the cancellation fee will be payable pro rata by each party. If there is disagreement between the parties about whether or not to cancel or reschedule, the cancelling party will be responsible for 50% of the *total* fee quoted for the mediation. In the event of unforeseeable emergency or other extraordinary occurrence reasonably beyond the parties' control, the cancellation fee may be reduced or waived at the mediator's discretion.

9. **Weekend Sessions.** Weekends are available for mediation sessions if requested by the parties or required by scheduling limitations. There may be an additional twenty percent (20%) added to the total Mediation Fee to cover the additional staffing or other costs involved in a weekend session (off hours HVAC., etc.).

10. **Additional Sessions.** If it is determined at or after the initial mediation session that another session is appropriate, an additional Mediation Fee will apply to each such further mediation session. In certain cases it is evident from inception that more than one mediation session will be needed. In such cases, the initial Mediation Fee will be based upon the total number of mediation sessions scheduled and will be payable and fully earned at the commencement of the initial session.

11. **Fee Earned.** The full Mediation Fee for all scheduled mediation sessions shall be deemed fully earned upon commencement of the initial scheduled daily mediation session. All payments of Mediation Fees received prior to the day of the scheduled mediation session may be held or may be deposited into the mediator's bank account and retained until earned.

12. **Form of Payment.** All parties' fee payments shall be in the form of cash, cashier's check, or check drawn on the bank account of (or payment guaranteed by) a law firm or insurance company and made payable to Christopher Nolland, Attorney-Mediator.

13. **Payment Due Date.** Payment in full is due no later than the day of the mediation and prior to the commencement of the session.