

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Civil Docket No.:

V

All mediations conducted through the EDNY Mediation Program are subject to the following confidentiality provisions. All participants in any mediation shall execute a confidentiality stipulation containing the following provisions and provide copies to the mediator and to the other participants before mediation begins. Signed confidentiality agreements should be maintained by the participants themselves, not the ADR Department. In addition, these confidentiality provisions incorporate the confidentiality protections afforded by Rule 408 of the Federal Rules of Evidence, New York law, and the Model Standards of Conduct for Mediators, promulgated by the American Bar Association, American Arbitration Association, and the Association for Conflict Resolution (September 2005).

IT IS HEREBY STIPULATED AND AGREED by and between the undersigned parties:

1. Mediation is a confidential process as provided in rule 83.8(g). All written and oral communications made by the parties and the mediator in connection with or during any mediation session are confidential and may not be disclosed or used for any purpose unrelated to the mediation. Such communications are not discoverable pursuant to local rule 83.8(g)(1) provided that documents and information otherwise discoverable under the Federal Rules of Civil Procedure are not shielded from discovery merely because they are part of the mediation process.
2. The participants may not disclose discussions or other communications with the mediator unless (i) all parties agree, (ii) disclosure is required by law or by the Rules of Professional Conduct; or (iii) otherwise confidential communications are relevant to a complaint against a mediator or the Mediation Program arising out of the mediation.
3. The parties may agree to disclose information provided or obtained during mediation to the Court while engaged in further settlement negotiations with a District or Magistrate Judge. The parties may disclose to the Court the terms of settlement if either party seeks to enforce those terms.
4. The mediator may not disclose information about the mediation process, communications, or participants to anyone other than the ADR Department. The ADR Department must also maintain confidentiality.
5. Administrative aspects of the mediation process including selection of the mediator, scheduling and holding sessions, and outcome of mediation are not confidential and

will appear on the docket.

6. Neither the mediator nor any participant may record or permit the recording of any part of a mediation session including audio, video, chat, closed captions, or any other methods of communication whether the mediation session is conducted in person or remotely.
7. Prior to the mediation session, parties will share with the mediator and each other the names of all persons who will attend, participate, or observe the mediation. No person may attend, participate, or be allowed to observe or listen to the mediation without the prior consent of all parties and the mediator. All participants must sign the confidentiality stipulation.
8. A party and/or representative (other than outside counsel) familiar with the matter possessing full settlement authority and the attorney responsible for handing the matter must attend the mediation session unless the mediator approves otherwise.
9. No party is bound by what is discussed in mediation unless the parties enter into a written and signed agreement.
10. The mediator may meet with participants jointly or separately.
11. One or more sessions may be held. The confidentiality stipulation executed before the initial session shall apply to all subsequent sessions.
12. Mediators may not be called as a witness or deponent or be compelled to produce documents pursuant to local rule 83.8(g)(2).
13. Panel Mediators are immune from liability or suit with respect to their conduct in court-annexed mediation as provided in local Rule 83.8(h).
14. Remote mediations: Understanding that the security of any electronic or telephonic platform cannot be guaranteed, the mediator and all participants in a mediation conducted remotely shall take reasonable and appropriate security precautions or disclose to the mediator and all participants that they are unable to do so in advance of any session. Such precautions must include taking steps so that only intended participants have access to the session and may include using a secure WiFi/Ethernet connection for all communications related to the mediation session, using secure meeting access codes, enabling an electronic waiting room, or locking meetings once all participants have convened.
15. This document may be signed via facsimile or pdf signature and each such signed copy may be deemed a duplicate original.

Dated: _____

Plaintiff

Defendant

Attorneys for Plaintiff

Attorneys for Defendant

Mediator

Additional participants sign below:
