

SOUTHWEST VIRGINIA MEDIATIONS
MEDIATION CONFIDENTIALITY AGREEMENT
Pursuant to Va. Code Sec. 8.01-581.22

Case Name: _____

1. In order to promote direct and candid communication among the parties and the mediator, and to facilitate a resolution of this dispute, the parties, their counsel and representatives, along with the mediator enter into this Agreement.

2. This Agreement governs all aspects of the mediation process, including both those that pre-date the execution of this Agreement and any post-mediation communications or conferences relating to the mediation.

3. All statements made during the course of the mediation are privileged settlement discussions. They are made without prejudice to any party's legal position, and are non-discoverable and inadmissible for any purpose in any later proceedings, except as provided by this statute and as set out in the previously executed Agreement to Mediate. Evidence otherwise discoverable or admissible shall not be excluded as a result of its disclosure or use during this mediation.

4. The privileged character of any information is not altered by disclosure to the mediator.

5. The parties further agree that confidentiality does not apply to any executed settlement document unless there is an explicit joint stipulation that the terms of settlement are to remain confidential. However, should such settlement agreement be required as proof to enforce its terms, such settlement agreement may then be introduced into evidence.

6. The parties understand and agree to the following:

a. The mediator is free to meet and communicate separately with each party during and after the mediation session.

b. The mediator may share information learned in private caucuses with the opposing party if the mediator believes such disclosure will facilitate the resolution of the case. However, if a party does not want certain information shared, the party will clearly inform the mediator that such information will be held in confidence.

c. The mediator is a neutral party. The mediator may express his views to the parties on legal issues of the dispute, and his suggestion of a settlement proposal if it appears beneficial to the resolution of the dispute, but he does not have an attorney-client relationship with any party.

d. All participants in the mediation are bound by the terms of this Agreement.

Plaintiff(s)

Defendant(s)

Counsel

Counsel

Dated: _____