INSTRUCTIONS FOR MEDIATION

In order to facilitate the resolution of the dispute(s) on terms acceptable to you and your client(s), the following commitments must be made from both you and your client(s):

1. All persons necessary to make a decision and resolve this matter will be present at mediation. This includes any guardian ad litem, and if one has been appointed, please notify me. Also any corporate/partnership/business entity that is a party, or any non-party insurance company which has not offered policy limits, must send a representative to the mediation. But, if the insured party has any exposure on the amount paid within policy limits, then both the insured party and the insurance representative must attend.

2. All parties will participate in the process in good faith and with the intention to settle if at all possible.

3. That all parties and their respective attorneys have reviewed and accept the "Mediation Rules" which accompany the Agreement to Mediate.

4. That all parties will submit a confidential Mediation Memorandum setting forth:

    a. Name, title, address, and telephone number of settlement representative(s) (not counsel) who will attend the mediation;
    b. Status of discovery (complete, substantially complete, incomplete, etc.). In this regard, I encourage you to complete any unfinished, minor discovery matters such as exchanging documents, supplementing interrogatories/disclosure responses, etc.;
    c. State whether you have enough information to make a settlement offer. If not, state what further information is needed;
    d. History of settlement offers <u>since litigation has been commenced;</u>
    e. Disputed issues of fact and law;
    f. Concise statements of points (factual, legal and practical) which you believe affect your/your client's chance of winning at trial; and
    g. All work/effort that needs to be accomplished in order to prepare this case for trial.

I encourage you to be candid in the Memorandum, especially as it relates to the last two items. PLEASE DO NOT COPY OTHER COUNSEL OR PARTIES ON THIS MEMORANDUM – SEND IT TO ME ONLY; I WILL KEEP IT ENTIRELY CONFIDENTIAL.

The mediation fee must be paid prior to the commencement of mediation. Please have an attorney check, cashier's check, certified check, or cash made payable to the order of Drew & McCallum. I do accept most major credit cards. <u>I do not accept personal checks from parties/clients.</u>

Please be aware that during the opening portion of the mediation session I will call upon the attorneys and parties to tell me what they think is important for me to consider in evaluating this case. I suggest that you be frank and candid in this assessment and preview the alternative (i.e. the likely trial outcome) if the case is not settled at mediation. I also suggest you give some consideration to the cost to prepare for trial, the cost to try the case, the likely trial outcome of the case, and the cost and outcome of possible appeals. I also require that parties and their counsel be respectful to each other during any opening and joint session(s). The purpose of mediation is not to win your case, but to present your position such that everyone understands the facts and issues of the case so an effective mediation can proceed.

I suggest you bring to the mediation the significant items of factually determinative evidence, such as documents, deposition testimony, or witness statements. If the case involves unique legal issues, consider bringing copies of any applicable case law or statutes.