

CAUSE NO. _____

_____	§	IN THE DISTRICT COURT
_____	§	
_____	§	431 st JUDICIAL DISTRICT
_____	§	
_____	§	DENTON COUNTY, TEXAS

ORDER OF REFERRAL TO MEDIATION

1. APPOINTMENT OF MEDIATOR AND OBJECTIONS

The Court finds this case is appropriate for mediation pursuant to Section 154.001 et seq. of the Texas Civil Practice and Remedies Code (CPRC) and Orders mediation pursuant to this Order. The parties **AGREE** [] and/or the Court **ORDERS** [] that _____ is hereby appointed mediator. In the case of an objection to mediation, a hearing before the Court must be requested simultaneously with the filing and service of the objection upon each other party's attorney of record or the objection is waived.

2. NON-BINDING, CONFIDENTIAL AND PRIVILEGED

Mediation is a mandatory but non-binding settlement conference, conducted with the assistance of the mediator. Mediation is private, confidential and privileged from process and discovery. After mediation, the Court will be advised by the mediator, parties and counsel only whether the parties complied with this Order and whether the case settled. Unless required by law, the mediator shall not be a witness nor may the mediator's records be subpoenaed or used as evidence, nor shall any party, agent, representative, or witness, be subject to examination with respect to statements or responses thereto that occurred during the mediation process. No subpoenas, citations, writs, or other process shall be served at or near the location of any mediation session, upon any person entering, leaving or attending any mediation session.

3. REPORTING NON-COMPLIANCE

To the extent any party fails to comply with this order, the mediator shall report to this court why the mediation has not been scheduled or conducted as ordered; however, the mediator shall not disclose any information prohibited from disclosure by CPRC §154.053.

4. REASONABLE MEDIATION FEE

The mediator shall negotiate a reasonable fee with the parties for a **FULL** [] **HALF** [] day mediation which shall be divided and borne equally by the parties, unless agreed or ordered otherwise, and paid by the parties directly to the mediator before mediation commences and shall be taxed as costs. If the parties do not agree upon the fee requested by the mediator, the court will set a reasonable fee, which shall be taxed as costs.

5. PROVIDING INFORMATION TO MEDIATOR

Each party and their attorney, if any, shall timely furnish copies of any pleadings, discovery, or documents, and complete any forms or provide any information requested by the mediator.

6. PEOPLE WHO MUST BE PRESENT AT MEDIATION

The named Parties themselves shall be present during the entire mediation process, in addition to any other agent or representative. If a party is not a natural person such entity must be represented by an authorized director, officer or employee of the organization, in addition to any other agent, representative or attorney. In addition to the named party being present at mediation, a named party may also have present a third-party authorized agent providing indemnity coverage for damages

alleged in the lawsuit attend the mediation. Unless ordered otherwise, all parties, authorized agents, attorneys and representatives must come to the physical location of mediation in person, and not by electronic, telephonic or other remote communication means, with full authority to settle for the remedies and damages alleged in the live pleadings or the policy limits of its coverage, whichever is less, in the case of an indemnity company. Failure to abide the mandates of this paragraph, may be treated by the Court as a failure to mediate and subject to sanctions by the Court.

7. MEDIATION DATE

If the parties and mediator cannot agree upon a mediation date, the mediator shall select a date for the mediation, transmit that date in writing to all counsel and/or pro-se parties; and all parties and representatives shall appear as directed by the mediator. The date agreed to by the parties and/or set by the mediator, confirmed by service upon each attorney of record and/or pro-se party, is incorporated in this Order as the date upon which the mediation shall occur. It is **ORDERED** that the parties **shall mediate** this case as set forth herein **no later than ten (10) days before the next trial setting**, unless modified by a written order of the Court.

8. CANCELLATION OF MEDIATION

Once a mediation date is agreed to and/or set by the mediator, and confirmed by service upon each attorney of record and/or pro-se party, such date shall not be changed, except by the written agreement of the parties and the mediator. Mediation may not be cancelled if it cannot be rescheduled to take place before the deadline.

9. SANCTIONS

Failure to comply with this Order of Referral to Mediation may result in the imposition of sanctions and/or dismissal, as permitted by law. Any party wishing to avoid the possibility of sanctions and/or dismissal should timely file a motion to compel and set the motion for hearing by the Court. Failure to mediate will not be considered cause for continuance of the trial date. Referral to mediation is not a substitute for trial, and the case will be tried if not settled.

10. MEDIATOR'S REPORT

A report regarding the outcome of the mediation session is to be mailed by the mediator to the Court, each counsel and/or pro-se party within three (3) days after settlement of the case or declaration of an impasse by the mediator.

SO ORDERED on _____, 20__.

JUDGE PRESIDING

AGREED AND/OR ACKNOWLEDGED:

Attorney for Plaintiff/Petitioner

Plaintiff/Petitioner

Attorney for Defendant/Respondent

Defendant/Respondent

Attorney for _____
