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Bill Hobbs, Founding Director

Date: _____

Dependency Court File Number: _____

Re: Your Dependency Court Mediation at Ed Edelman Children's Court

Dear Mediation Participant:

Your Appointment:

Thank you for your willingness to work with Loyola Center for Conflict Resolution (LCCR), which is providing Confidential Dependency Mediation at the Ed Edelman Children's Courthouse located at 201 Centre Plaza Drive, Monterey Park, CA 91754 on Mondays and Tuesdays. You are receiving this letter and the accompanying paperwork to help you prepare for your Mediation Appointment.

Please bring identification to your appointment. Also please be sure to read the attached paperwork prior to your appointment.

The Goal of Attending a Mediation in Dependency Court:

Mediators are available, by appointment, to help you discuss and agree on custody and a visitation schedule, which will serve as your Exit Order from Dependency Court. Your Agreement must comply with any restrictions placed on you by the Court. After you reach an Agreement on custody and visitation, you will need to see the Judge on that same day so it can be confirmed by the Court.

LCCR's Confidential Mediation Services:

Please see the attached ***Information Sheet and Agreement to Mediate*** so that you understand our mediation process. You will be asked to sign those two forms at the beginning of the mediation process.

The mediators are neutral, which means they do not take sides. Mediators cannot represent or advise you. Mediators assist you to discuss your concerns and reach an Agreement. LCCR's services are voluntary and confidential except for the Agreement that must be given to the Court in this program.

When the Court confirms your custody and visitation Agreement, it will become your Exit Order from Dependency Court and will be placed in a Family Law Court file. Your mediators cannot give you legal advice, assist you with discussions regarding financial issues, or discuss what might happen in another court. If you need legal advice, please speak to an attorney.

As a mediation training facility, there will be law-students in-training and volunteers either observing the mediation and/or participating in providing services alongside the professionals. Everyone signs a confidentiality agreement promising not to speak about your case to anyone outside of the program.

If You Receive Legal Papers Prior to Your Mediation:

If you received any legal papers regarding any court case, it is important to note the deadline for responding to those papers and to communicate with your attorney about those papers immediately. The deadline should be written on the front of those papers. Please do not wait for your Mediation Appointment with us to decide what to do. If you do not respond by the deadline, it is possible that you could lose important legal rights.

In no event does participation in mediation with LCCR (or conversations with staff, supervisors, students or volunteers) negate or change Court timelines, which must be followed.

We are available to discuss this with you further should you have any questions or concerns on the day of your mediation. We look forward to serving you.



Sara Campos
Director

Loyola Center for Conflict Resolution

INFORMATION STATEMENT

Who We Are And Our Process

The Loyola Center for Conflict Resolution (LCCR) is a bilingual (English/Spanish) community mediation program that provides facilitative mediation and conciliation services. Services are provided by supervising professional mediators alongside Loyola Law School students, and other community volunteers. Dependency Court Mediation Services are provided at Dependency Court by appointment and are free of charge.

In Dependency Court Mediation, a neutral person (the mediator) helps the parties discuss ways to resolve their concerns in person in an informal meeting called a mediation. Your mediators will **not** take sides, give legal advice or represent you. The mediators are there to make sure that each of you understands the other person's viewpoints and concerns, and to help you work out a solution that is acceptable to all parties. Your participation is **voluntary** and you may withdraw at any time.

Our process is **simple**. In mediation, you talk about what you want to see happen and why. Mediators help you understand each other's concerns so you can agree about what will happen in the **future**.

Our process is **informal**. We often use first names and ask each person to speak for him or herself. In the beginning, **each** party speaks to the mediator individually. If parties meet together, each person will be given the opportunity to speak **without interruption** by the other person. Later in the process, if both of you want, you will be able to speak directly to each other.

In Dependency Court Mediation, you have an opportunity to decide custody and visitation for yourself by reaching an Agreement; otherwise a Judge will decide for you. Mediators do not make decisions. We hope that all who attend our mediations participate in good faith, and that we are able to help you agree on custody and visitation.

Confidentiality

With some exceptions, anything said or written during mediation is **confidential**, which means that it cannot be used in any **noncriminal proceeding**, in which testimony can be required, unless everyone agrees. This does not apply to your voluntary Custody and Visitation **Agreement** that you reach in Dependency Court Mediation.

In Dependency Court, your Custody and Visitation Mediation **Agreement** is not confidential. There is a paragraph in your Custody and Visitation Agreement that says you want your **Agreement** to be non-confidential so it can be shared with the Judge. The Judge will need to review it in order to confirm your Custody and Visitation Mediation **Agreement**, before you leave the Courthouse, so that it can act as your Exit Order.

In the beginning of your mediation, you will be asked to sign an Agreement to Mediate, which describes confidentiality, and this Information Statement. Please review them before the mediation.

The mediators will meet with you individually and/or in groups. Private meetings are called **caucuses**. Any caucus information will not be shared with the other party without your permission.

Are Attorneys Involved?

Mediation was *originally developed* with only the involved parties attending the mediation, to discuss their issues with the help of a neutral mediator. Although attorneys and witnesses generally do not attend Dependency Court Custody and Visitation Mediation sessions, you have the right to have an attorney present, and to call and question witnesses. Attorneys are welcome to meet with the mediators to discuss any concerns even if they are not able to attend the entire mediation.

Funding and Service Concerns

The Los Angeles County Department of Community and Senior Services, under The California Dispute Resolution Programs Act, partially funds LCCR. They also monitor our files. If you have any concerns about LCCR services, you may contact the Associate Director of LCCR and/or request a **Grievance Form**.

Conflict of Interest

It is important that your mediators not have any personal, professional or financial relationship with you or anyone close to you that might interfere with your mediators' ability to be neutral. Your mediators will reveal any known personal, professional or financial interests.

It is also important that you inform your mediator if you believe that any person involved in the mediation has any personal, professional or financial relationship with the mediators that might interfere with your mediators' ability to be neutral.

Date:

Parties to the Mediation: **X** _____

I have spoken to my attorney and he/she has no objection to my participating in this mediation

(please initial): _____

Loyola Center for Conflict Resolution: _____

These Services Are Made Possible Through Major Support From the Los Angeles County Department of Workforce Development, Aging and Community Services through the California Dispute Resolution Programs Act.

Agreement to Mediate

All Parties, their attorneys, other participants, and the **Loyola Center for Conflict Resolution (LCCR)** agree to voluntarily participate in mediation at Dependency Court, and that the California Evidence Code Sections on mediation confidentiality (on back) apply to this mediation, except for Section 1125(a)(5). For purposes of Section 1125 (a)(5), mediation does not end until all Parties, the mediator(s), and all participants agree that it has ended.

What this Agreement means is that, with some exceptions, anything said and anything written in preparation for the mediation, and during this mediation, is confidential and cannot be used in any **noncriminal proceeding** unless everyone agrees. Everyone understands and agrees that there is limited mediation space in Dependency Court, and that sometimes mediations take place in surroundings that don't seem completely confidential. All agree that courthouse mediation space does not violate mediation confidentiality. All agree that the mediator(s) may consult confidentially with supervising mediators before, during and after the mediation.

There are two exceptions to mediation confidentiality in Dependency Court. First, the final Custody and Visitation Agreement you voluntarily reach **and sign** is not confidential. Your signed Custody and Visitation Agreement must be non-confidential so the Judge can confirm the Agreement as your Exit Order, and place it in a Family Court file.

The second confidentiality exception involves new allegations of neglect, abuse or possible increased risk of harm that must be reported to the Court. Everyone agrees to tell your mediator(s) at the beginning of your mediation about threats or possible risks of harm between the co-parents, the children or anyone else involved in the mediation, or impacted by the mediation. This includes newly requested or active restraining orders.

Confidentiality, as described on the back, does not apply to **criminal proceedings**. What this means is that we might be required to testify or give our file to the court in a **later criminal** proceeding. Additionally, if you tell us that you have committed a crime or that you plan to commit a crime, which the Dependency Court does not know about, we may have to report you to the Dependency Court and/or other authorities.

Because of the sensitive nature of confidential mediation discussions, all participants in the mediation, including Parties and their attorneys, agree not to call the mediator(s), LCCR staff, including students, volunteers and observers, to testify about anything with respect to the mediation, or to subpoena LCCR's records, in a later civil or criminal proceeding.

Children are not allowed in these mediations unless everyone agrees prior to the mediation, including parents, mediator(s) and the children's attorneys. Please do not bring children with you on mediation day.

Loyola Center for Conflict Resolution shall not reveal information to third parties without the consent of all participants. However, without disclosing participants' names or other identifying information, the mediator(s) may consult with colleagues, and may describe this matter in publications or in a training class about mediation.

Date: _____ Parties/Participants Names: _____

Signatures: _____

Loyola Center for Conflict Resolution: _____

**California Evidence Code Sections
1115-1129**

1115.

For purposes of this chapter:

(a) "Mediation" means a process in which a neutral person or persons facilitate communication between the disputants to assist them in reaching a mutually acceptable agreement.

(b) "Mediator" means a neutral person who conducts a mediation. "Mediator" includes any person designated by a mediator either to assist in the mediation or to communicate with the participants in preparation for a mediation.

(c) "Mediation consultation" means a communication between a person and a mediator for the purpose of initiating, considering, or reconvening a mediation or retaining the mediator.

1116.

(a) Nothing in this chapter expands or limits a court's authority to order participation in a dispute resolution proceeding. Nothing in this chapter authorizes or affects the enforceability of a contract clause in which parties agree to the use of mediation.

(b) Nothing in this chapter makes admissible evidence that is inadmissible under Section 1152 or any other statute.

1117.

(a) Except as provided in subdivision (b), this chapter applies to a mediation as defined in Section 1115.

(b) This chapter does not apply to either of the following:

(1) A proceeding under Part 1 (commencing with Section 1800) of Division 5 of the Family Code or Chapter 11 (commencing with Section 3160) of Part 2 of Division 8 of the Family Code.

(2) A settlement conference pursuant to Rule 3.1380 of the California Rules of Court.

1118.

An oral agreement "in accordance with Section 1118" means an oral agreement that satisfies all of the following conditions:

(a) The oral agreement is recorded by a court reporter or reliable means of audio recording.

(b) The terms of the oral agreement are recited on the record in the presence of the parties and the mediator, and the parties express on the record that they agree to the terms recited.

(c) The parties to the oral agreement expressly state on the record that the agreement is enforceable or binding or words to that effect.

(d) The recording is reduced to writing and the writing is signed by the parties within 72 hours after it is recorded.

1119.

Except as otherwise provided in this chapter:

(a) No evidence of anything said or any admission made for the purpose of, in the course of, or pursuant to, a mediation or a mediation consultation is admissible or subject to discovery, and disclosure of the evidence shall not be compelled, in any arbitration, administrative adjudication, civil action, or other noncriminal proceeding in which, pursuant to law, testimony can be compelled to be given.

(b) No writing, as defined in Section 250, that is prepared for the purpose of, in the course of, or pursuant to, a mediation or a mediation consultation, is admissible or subject to discovery, and disclosure of the writing shall not be compelled, in any arbitration, administrative adjudication, civil action, or other noncriminal proceeding in which, pursuant to law, testimony can be compelled to be given.

(c) All communications, negotiations, or settlement discussions by and between participants in the course of a mediation or a mediation consultation shall remain confidential.

1120.

(a) Evidence otherwise admissible or subject to discovery outside of a mediation or a mediation consultation shall not be or become inadmissible or protected from disclosure solely by reason of its introduction or use in a mediation or a mediation consultation.

(b) This chapter does not limit any of the following:

(1) The admissibility of an agreement to mediate a dispute.

(2) The effect of an agreement not to take a default or an agreement to extend the time within which to act or refrain from acting in a pending civil action.

(3) Disclosure of the mere fact that a mediator has served, is serving, will serve, or was contacted about serving as a mediator in a dispute.

(4) The admissibility of declarations of disclosure required by Sections 2104 and 2105 of the Family Code, even if prepared for the purpose of, in the course of, or pursuant to, a mediation or a mediation consultation.

1121.

Neither a mediator nor anyone else may submit to a court or other adjudicative body, and a court or other adjudicative body may not consider, any report, assessment, evaluation, recommendation, or finding of any kind by the mediator concerning a mediation conducted by the mediator, other than a report that is mandated by court rule or other law and that states only whether an agreement was reached, unless all parties to the mediation expressly agree otherwise in writing, or orally in accordance with Section 1118.

1122.

(a) A communication or a writing, as defined in Section 250, that is made or prepared for the purpose of, or in the course of, or pursuant to, a mediation or a mediation consultation, is not made inadmissible, or protected from disclosure, by provisions of this chapter if any of the following conditions are satisfied:

(1) All persons who conduct or otherwise participate in the mediation expressly agree in writing, or orally in accordance with Section 1118, to disclosure of the communication, document, or writing.

(2) The communication, document, or writing was prepared by or on behalf of fewer than all the mediation participants, those participants expressly agree in writing, or orally in accordance with Section 1118, to its disclosure, and the communication, document, or writing does not disclose anything said or done or any admission made in the course of the mediation.

(3) The communication, document, or writing is related to an attorney's compliance with the requirements described in Section 1129 and does not disclose anything said or done or any admission made in the course of the mediation, in which case the communication, document, or writing may be used in an attorney disciplinary proceeding to determine whether the attorney has complied with Section 1129.

(b) For purposes of subdivision (a), if the neutral person who conducts a mediation expressly agrees to disclosure, that agreement also binds any other person described in subdivision (b) of Section 1115.

1123.

A written settlement agreement prepared in the course of, or pursuant to, a mediation, is not made inadmissible, or protected from disclosure, by provisions of this chapter if the agreement is signed by the settling parties and any of the following conditions are satisfied:

(a) The agreement provides that it is admissible or subject to disclosure, or words to that effect.

(b) The agreement provides that it is enforceable or binding or words to that effect.

(c) All parties to the agreement expressly agree in writing, or orally in accordance with Section 1118, to its disclosure.

(d) The agreement is used to show fraud, duress, or illegality that is relevant to an issue in dispute.

1124.

An oral agreement made in the course of, or pursuant to, a mediation is not made inadmissible, or protected from disclosure, by the provisions of this chapter if any of the following conditions are satisfied:

(a) The agreement is in accordance with Section 1118.

(b) The agreement is in accordance with subdivisions (a), (b), and (d) of Section 1118, and all parties to the agreement expressly agree, in writing or orally in accordance with Section 1118, to disclosure of the agreement.

(c) The agreement is in accordance with subdivisions (a), (b), and (d) of Section 1118, and the agreement is used to show fraud, duress, or illegality that is relevant to an issue in dispute.

1125.

(a) For purposes of confidentiality under this chapter, a mediation ends when any one of the following conditions is satisfied:

(1) The parties execute a written settlement agreement that fully resolves the dispute.

(2) An oral agreement that fully resolves the dispute is reached in accordance with Section 1118.

(3) The mediator provides the mediation participants with a writing signed by the mediator that states that the mediation is terminated, or words to that effect, which shall be consistent with Section 1121.

(4) A party provides the mediator and the other mediation participants with a writing stating that the mediation is terminated, or words to that effect, which shall be consistent with Section 1121. In a mediation involving more than two parties, the mediation may continue as to the remaining parties or be terminated in accordance with this section.

(5) For 10 calendar days, there is no communication between the mediator and any of the parties to the mediation relating to the dispute. The mediator and the parties may shorten or extend this time by agreement.

(b) For purposes of confidentiality under this chapter, if a mediation partially resolves a dispute, mediation ends when either of the following conditions is satisfied:

(1) The parties execute a written settlement agreement that partially resolves the dispute.

(2) An oral agreement that partially resolves the dispute is reached in accordance with Section 1118.

(c) This section does not preclude a party from ending a mediation without reaching an agreement. This section does not otherwise affect the extent to which a party may terminate a mediation.

1126.

Anything said, any admission made, or any writing that is inadmissible, protected from disclosure, and confidential under this chapter before a mediation ends, shall remain inadmissible, protected from disclosure, and confidential to the same extent after the mediation ends.

1127.

If a person subpoenas or otherwise seeks to compel a mediator to testify or produce a writing, as defined in Section 250, and the court or other adjudicative body determines that the testimony or writing is inadmissible under this chapter, or protected from disclosure under this chapter, the court or adjudicative body making the determination shall award reasonable attorney's fees and costs to the mediator against the person seeking the testimony or writing.

1128.

Any reference to a mediation during any subsequent trial is an irregularity in the proceedings of the trial for the purposes of Section 657 of the Code of Civil Procedure. Any reference to a mediation during any other subsequent noncriminal proceeding is grounds for vacating or modifying the decision in that proceeding, in whole or in part, and granting a new or further hearing on all or part of the issues, if the reference materially affected the substantial rights of the party requesting relief.

1129.

(a) Except in the case of a class or representative action, an attorney representing a client participating in a mediation or a mediation consultation shall, as soon as reasonably possible before the client agrees to participate in the mediation or mediation consultation, provide that client with a printed disclosure containing the confidentiality restrictions described in Section 1119 and obtain a printed acknowledgment signed by that client stating that he or she has read and understands the confidentiality restrictions.

(b) An attorney who is retained after an individual agrees to participate in the mediation or mediation consultation shall, as soon as reasonably possible after being retained, comply with the printed disclosure and acknowledgment requirements described in subdivision (a).

(c) The printed disclosure required by subdivision (a) shall:

(1) Be printed in the preferred language of the client in at least 12-point font.

(2) Be printed on a single page that is not attached to any other document provided to the client.

(3) Include the names of the attorney and the client and be signed and dated by the attorney and the client.

(d) If the requirements in subdivision (c) are met, the following disclosure shall be deemed to comply with the requirements of subdivision (a):

Mediation Disclosure Notification and Acknowledgment

To promote communication in mediation, California law generally makes mediation a confidential process. California's mediation confidentiality laws are laid out in Sections 703.5 and 1115 to 1129, inclusive, of the Evidence Code. Those laws establish the confidentiality of mediation and limit the disclosure, admissibility, and a court's consideration of communications, writings, and conduct in connection with a mediation. In general, those laws mean the following:

- All communications, negotiations, or settlement offers in the course of a mediation must remain confidential.
- Statements made and writings prepared in connection with a mediation are not admissible or subject to discovery or compelled disclosure in noncriminal proceedings.
- A mediator's report, opinion, recommendation, or finding about what occurred in a mediation may not be submitted to or considered by a court or another adjudicative body.
- A mediator cannot testify in any subsequent civil proceeding about any communication or conduct occurring at, or in connection with, a mediation.

This means that all communications between you and your attorney made in preparation for a mediation, or during a mediation, are confidential and cannot be disclosed or used (except in extremely limited circumstances), even if you later decide to sue your attorney for malpractice because of something that happens during the mediation.

I, _____ [Name of Client], understand that, unless all participants agree otherwise, no oral or written communication made during a mediation, or in preparation for a mediation, including communications between me and my attorney, can be used as evidence in any subsequent noncriminal legal action including an action against my attorney for malpractice or an ethical violation.

NOTE: This disclosure and signed acknowledgment does not limit your attorney's potential liability to you for professional malpractice, or prevent you from (1) reporting any professional misconduct by your attorney to the State Bar of California or (2) cooperating with any disciplinary investigation or criminal prosecution of your attorney.

Date: _____ Parties/Participants Names: _____

Signatures: _____

Date: _____ Attorneys Names: _____

Signatures: _____

California Evidence Code Section 1129(e) Failure of an attorney to comply with this section is not a basis to set aside an agreement prepared in the course of, or pursuant to, a mediation.