

MONTGOMERY COUNTY  
DOMESTIC RELATIONS COURT

AGREEMENT TO MEDIATE

CASE NO.: \_\_\_\_\_

DATE: \_\_\_\_\_

Mediation is a voluntary process through which the parties to a dispute, with the help of an impartial third-party (a court mediator), work towards a mutually satisfactory solution.

1. All participants understand and agree that the choice to settle the case through mediation is voluntary. The mediators do not have the power or authority to force the parties to accept an agreement.
2. All participants understand and agree that the mediators are neutral. The mediators will not make decisions for the participants. The assigned judge will be told immediately of any challenge to the neutrality of the mediator.
3. Nothing the mediators say is legal advice. Participants agree that they will not construe statements made by the mediators as legal advice.
4. The Court does require a good faith effort while participating in the mediation.
5. The parties agree not to ask for a continuance of the mediation unless there is an emergency or other significant circumstance.
6. All matters discussed during the mediation process are confidential; except information revealed involving the planning of a crime, the commission of a felony, possible abuse, neglect, abandonment or exploitation of a child or a threat of bodily harm to any person pursuant to R.C. 2710.07.
7. The undersigned participants agree that no one will testify voluntarily in any proceeding concerning the communications made during the mediation process.
8. The mediators may not be compelled to provide evidence of a mediation communication referred to in R.C.2710.05 (A) (6) or (B) (2).
9. If a mediation communication is not privileged, only the non-privileged portion of the communications may be disclosed. Admission of evidence does not render the evidence, or any other mediation communication, discoverable or admissible for any other purpose.

10. The agreement will be put in writing by the mediator for the parties to sign. All parties will receive a signed copy of the agreement. The mediators will not keep any other records of the mediation.

11. The parties agree to fully disclose all relevant property and debts and to provide all documentation such as financial statements, income tax returns, pension and/or profit sharing plan and any other information requested by the mediator.

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Party

\_\_\_\_\_  
Attorney

\_\_\_\_\_  
Party

\_\_\_\_\_  
Attorney

\_\_\_\_\_  
Mediator

\_\_\_\_\_  
Mediator

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\_\_\_\_\_  
Observer

DATE \_\_\_\_\_

\_\_\_\_\_

**2710.05 Exceptions to privilege - partial admission of nonprivileged communication.**

(A) There is no privilege under section 2710.03 of the Revised Code for a mediation communication to which any of the following applies:

(1) The mediation communication is contained in a written agreement evidenced by a record signed by all parties to the agreement.

(2) The mediation communication is available to the public under section 149.43 of the Revised Code or made during a session of mediation that is open, or is required by law to be open, to the public;

(3) The mediation communication is an imminent threat or statement of a plan to inflict bodily injury or commit a crime of violence.

(4) The mediation communication is intentionally used to plan, attempt to commit, or commit a crime or to conceal an ongoing crime or ongoing criminal activity.

(5) The mediation communication is sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice filed against a mediator.

(6) Except as otherwise provided in division (C) of this section, the mediation communication is sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice filed against a mediation party, nonparty participant, or representative of a party based on conduct occurring during a mediation.

(7) Except as provided in sections 2317.02 and 3109.052 of the Revised Code, the mediation communication is sought or offered to prove or disprove abuse, neglect, abandonment, or exploitation in a proceeding in which a child or adult protective services agency is a party, unless the case is referred by a court to mediation and a public agency participates.

(8) The mediation communication is required to be disclosed pursuant to section 2921.22 of the Revised Code.

(9) The mediation communication is sought in connection with or offered in any criminal proceeding involving a felony, a delinquent child proceeding based on what would be a felony if committed by an adult, or a proceeding initiated by the state or a child protection agency in which it is alleged that a child is an abused, neglected, or dependent child.

(B) There is no privilege under section 2710.03 of the Revised Code if a court, administrative agency, or arbitrator finds, after a hearing in camera, that the party seeking discovery or the proponent of the evidence has shown that the evidence is not otherwise available, that the disclosure is necessary in the particular case to prevent a manifest injustice, and that the mediation communication is sought or offered in either of the following:

(1) A court proceeding involving a misdemeanor;

(2) Except as otherwise provided in division (C) of this section, a proceeding to prove a claim to rescind or reform or a defense to avoid liability on a contract arising out of the mediation.

(C) A mediator may not be compelled to provide evidence of a mediation communication referred to in division (A)(6) or (B)(2) of this section.

(D) If a mediation communication is not privileged under division (A) or (B) of this section, only the portion of the communication necessary for the application of the exception from nondisclosure may be admitted. Admission of evidence under division (A) or (B) of this section does not render the evidence, or any other mediation communication, discoverable or admissible for any other purpose.

Effective Date: 10-29-2005

### **2710.07 Confidentiality of mediation communications.**

Except as provided in sections 121.22 and 149.43 of the Revised Code, mediation communications are confidential to the extent agreed by the parties or provided by other sections of the Revised Code or rules adopted under any section of the Revised Code.

Effective Date: 10-29-2005