

**Date :** 1/29/2023 2:24:34 PM

**From :** "Paul Dulberg"

**To :** "Alphonse Talarico"

**BCc :** "Paul Dulberg"

**Subject :** Fwd: ADR Contracts marked up

**Attachment :** Screen Shot 2022-10-29 at 2.36.25 PM.png; Screen Shot 2022-10-29 at 2.36.18 PM.png; Screen Shot 2022-10-29 at 2.36.12 PM.png; Screen Shot 2022-10-29 at 2.36.07 PM.png; Screen Shot 2022-10-29 at 2.36.01 PM.png; Screen Shot 2022-10-29 at 2.35.56 PM.png;

Begin forwarded message:

**From:** Paul Dulberg <[Paul\\_Dulberg@comcast.net](mailto:Paul_Dulberg@comcast.net)>

**Subject:** ADR Contracts marked up

**Date:** October 29, 2022 at 2:37:45 PM CDT

**To:** Alphonse Talarico <[contact@lawofficeofalphonsetalarico.com](mailto:contact@lawofficeofalphonsetalarico.com)>

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Shoshan Reddington, Esq. (Defense Attorney)  
LAW OFFICES OF STEVEN LIHOSIT  
200 N. La Salle Street  
Suite 2550  
Chicago, IL 60601

1. The Parties may present opening statements but there will be no live testimony.
2. The Parties will attempt to reach a voluntary settlement through negotiation with the assistance of the Mediator.
3. If the Parties cannot voluntarily reach a settlement, the Mediator will advise the Parties that settlement cannot be reached. The Mediator will then take the matter under advisement and render an award that will be binding to all Parties, (the "Award"), subject to the terms of any high/low agreement that the Parties may have as described below in Paragraph (F)(i).

1. The Parties may agree prior to the Mediation that a minimum and maximum amount will serve as parameters for the Award (sometimes referred to as a "high/low agreement"), such that the actual amount that must be paid to the plaintiff or claimant shall not exceed a certain amount (the "high" or "maximum award") and shall not be less than a certain amount (the "low" or "minimum award").
  - a. If liability is disputed and comparative fault or negligence is asserted as an affirmative defense, the Mediator shall make a finding regarding comparative fault or negligence, if any. In the event that there is a finding of comparative fault or negligence of the plaintiff that is greater than 50% (fifty percent), the plaintiff shall receive the negotiated minimum award. In the event that there is a finding of comparative fault or negligence of 50% (fifty percent) or less against the plaintiff, then any damages awarded in favor of the plaintiff shall be reduced by the amount of the plaintiff's comparative fault or negligence, but shall be no less than the minimum parameter or more than the maximum parameter.
  - b. All award minimum and maximum parameters are subject to applicable set-offs if any, as governed by policy provisions if not specified in the Agreement.

The Parties agree that for this Mediation the minimum award to Paul Dulberg will be **\$50,000.00**. Also, the maximum award to Paul Dulberg will be **\$300,000.00**. These amounts reflect the minimum and maximum amounts of money that **David Gagnon** shall be liable to pay to Paul Dulberg.

A. After the commencement of the Mediation, no Party shall be permitted to cancel this Agreement or the Mediation and the Mediator shall render a decision that shall be in accordance with the terms set forth in this Agreement. When the Award is rendered, the Mediation is resolved, and any Award arising from this Mediation shall operate as a bar and complete defense to any action or proceeding in any court or tribunal that may arise from the same incident upon which the Mediation is based.



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**B. Amendments to the Agreement** **Who approved the changes from the original contract?**

1. No Party shall amend the Agreement at any time without the consent and approval of such changes by the opposing Party, and ADR Systems of America.
2. When changes or amendments to the Agreement are being requested, the Parties shall inform the ADR Systems case manager by telephone. The agreed proposal must also be submitted to the ADR Systems case manager in writing, by fax or email, if necessary, and the contract changes **MUST** be made by ADR Systems. No changes made outside these guidelines will be accepted. Furthermore, if the amended contract made by ADR Systems is not signed by both Parties, the Agreement shall be enforced in its original form, without changes.

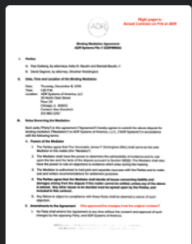
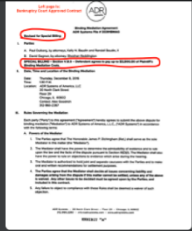
**C. Pre-Hearing Submission**

1. Mediation statements are permitted provided that the statement is shared among the other parties. The Mediation Statement may include: statement of facts, including a description of the injury and a list of special damages and expenses incurred and expected to be incurred; and a theory of liability and damages and authorities in support thereof.

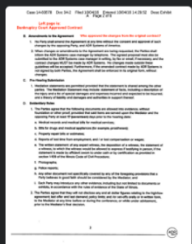
**D. Evidentiary Rules**

1. The Parties agree that the following documents are allowed into evidence, without foundation or other proof, provided that said items are served upon the Mediator and the opposing Party at least **17 (seventeen)** days prior to the hearing date:
  - a. Medical records and medical bills for medical services;
  - b. Bills for drugs and medical appliances (for example, prostheses);
  - c. Property repair bills or estimates;
  - d. Reports of lost time from employment, and / or lost compensation or wages;
  - e. The written statement of any expert witness, the deposition of a witness, the statement of a witness, to which the witness would be allowed to express if testifying in person, if the statement is made by affidavit sworn to under oath or by certification as provided in section 1-109 of the Illinois Code of Civil Procedure;
  - f. Photographs;
  - g. Police reports;
  - h. Any other document not specifically covered by any of the foregoing provisions that a Party believes in good faith should be considered by the Mediator; and
  - i. Each Party may introduce any other evidence, including but not limited to documents or exhibits, in accordance with the rules of evidence of the State of Illinois.
2. The Parties agree that they will not disclose any and all dollar figures relating to the high/low agreement; last offer and last demand; policy limits; and /or set-offs orally or in written form, to the Mediator at any time before or during the conference, or while under advisement, prior to the Mediator's final decision.

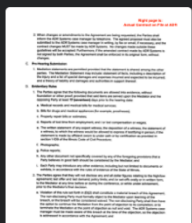




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**Left page is:  
Bankruptcy Court Approved Contract**



**Binding Mediation Agreement**  
**ADR Systems File # 33391BMAG**

Revised for Special Billing

## I. Parties

A. Paul Dulberg, by attorneys, Kelly N. Baudin and Randall Baudin, II

B. David Gagnon, by attorney, Shoshan Reddington

**SPECIAL BILLING – Section V.B.5 – Defendant agrees to pay up to \$3,500.00 of Plaintiff's Binding Mediation Costs.**

## II. Date, Time and Location of the Binding Mediation

Date: Thursday, December 8, 2016

Time: 1:30 P.M.

**Location:** ADR Systems of America, LLC  
20 North Clark Street  
Floor 29  
Chicago, IL 60602  
Contact: Alex Goodrich  
312-960-2267

### III. Rules Governing the Mediation

Each party ("Party") to this agreement ("Agreement") hereby agrees to submit the above dispute for binding mediation ("Mediation") to ADR Systems of America, L.L.C., ("ADR Systems") in accordance with the following terms:

### A. Powers of the Mediator

1. The Parties agree that The Honorable James P. Etchingham (Ret.) shall serve as the sole Mediator in this matter (the "Mediator").
2. The Mediator shall have the power to determine the admissibility of evidence and to rule upon the law and the facts of the dispute pursuant to Section III(D)(1). The Mediator shall also have the power to rule on objections to evidence which arise during the hearing.
3. The Mediator is authorized to hold joint and separate caucuses with the Parties and to make oral and written recommendations for settlement purposes.
4. **The Parties agree that the Mediator shall decide all issues concerning liability and damages arising from the dispute if this matter cannot be settled, unless any of the above is waived. Any other issues to be decided must be agreed upon by the Parties, and included in this contract.**
5. Any failure to object to compliance with these Rules shall be deemed a waiver of such objection.