I. INTENT AND GOAL OF LAW PRACTICE MEDIATION PROGRAM

It is the policy of the Los Angeles County Bar Association (LACBA) Attorney-Client Mediation and Arbitration Services (ACMAS) to promote the consensual resolution through mediation of any and all types of law practice disputes that may arise in connection with the regular or daily operation of a law office, including private law firms or partnerships, in-house counsel, legal services organizations, district attorney or public defender offices, agencies etc. To this end, the Law Practice Mediation Program will address many types of disputes, including but not limited to, internal law office disputes involving partners, associates, staff attorneys or support staff, including allocation of fees; disputes arising from firm names; partnership dissolution, firm break up or retirement; firm to firm disputes; litigation disputes arising from employment of expert witnesses, liability for sanctions, expenses incurred or other issues; all other types of attorney-client disputes, claims of document or file ownership, malpractice, ethics and other performance issues; and Business and Professions Code 6200 fee disputes in which the parties have opted out of the Mandatory Fee Arbitration or Voluntary Mediation Program.1 It is anticipated that participation in this Program will improve the image and practice of law by providing a forum where law practice disputes can be resolved efficiently, privately, and effectively at a reduced cost and with less disruption to the ongoing work of the law office.

II. ORGANIZATION AND ADMINISTRATION

A. In recognition of the value of mediating a broad range of law practice disputes, ACMAS and the Attorney-Client Mediation and Arbitration Services Executive Committee (ACMAS Executive Committee) hereby establish the following Law Practice Mediation Program Rules.

B. Whereas the mandatory fee arbitration or voluntary mediation programs, which are governed by Business and Professions Code section 6200 et seq., are limited to fee disputes, under the Law Practice Mediation Program, any law practice dispute, including fee disputes, may be mediated. Parties may submit an attorney-client fee dispute claim that would otherwise be governed by Section 6200, but which has not yet been filed for arbitration with ACMAS, if they wish to select and pay for a mediator from the Law Practice Mediation Program Panel Roster.

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1Disputes between attorneys and clients regarding fees or reimbursable costs are subject to Mandatory Arbitration or Voluntary Fee Mediation pursuant to Business and Professions Code Section 6200 et seq. The Los Angeles County Bar Association’s Mandatory Fee Arbitration program is governed by the Los Angeles County Bar Association’s Attorney Client Mediation & Arbitration Services “Rules for Conduct of Mandatory Arbitration of Fee Disputes Pursuant to Business and Professions Code 6200 et. seq.” The Los Angeles County Bar Association’s Voluntary Fee Mediation Program is governed by the Los Angeles County Bar Association’s Attorney Client Mediation & Arbitration Services “Mediation of Fee Disputes Program Rules of Mediation.” The Law Practice Mediation Program, which exists independent of Business and Professions Code section 6200 et seq., and outside the purview of the State Bar Mandatory Fee Arbitration Committee, is a separate and distinct program operating under the Rules of the Law Practice Mediation Program.
C. Parties may agree jointly to use the Law Practice Mediation Program as described in these Rules, or a single party to a dispute may file a request for mediation, asking ACMAS to contact and seek the agreement of the other party or parties to mediate their dispute through the Law Practice Mediation Program.

III. GOVERNING LAW

A. ACMAS delegates to the ACMAS Committee the authority and the responsibility to select, appoint and maintain a panel of qualified mediators in accordance with the Law Practice Mediation Rules or, at the ACMAS Committee’s option, to delegate any or all of this responsibility to ACMAS staff.

B. The Law Practice Mediation Program shall be administered by the ACMAS Executive Committee and its Mediation Subcommittee.

C. The ACMAS Committee is authorized to interpret the Law Practice Mediation Rules and their application to all issues/questions that arise in all aspects of the Law Practice Mediation Program, including, but not limited to, administration and implementation of the program, selection and maintenance of the Law Practice Mediation Program Panel Roster and the conduct of the mediator and the mediation participants, as prescribed by these Rules.

IV. VOLUNTARY PARTICIPATION

A. Participation in the Law Practice Mediation Program is voluntary.

B. To participate in the Law Practice Mediation Program, all parties must execute the LACBA ACMAS “Agreement to Mediate,” which confirms the voluntary nature of their participation in the Law Practice Mediation Program, irrespective of any prior agreements to mediate.

C. If a request for mediation under the Law Practice Mediation Program is made pursuant to a retainer or any other agreement that mandates mediation, LACBA/ACMAS will convene the mediation only after it has obtained the parties’ independent and voluntary signatures on its “Agreement to Mediate” form.

V. PROGRAM PARTICIPATION ELIGIBILITY

A. A Law Practice Mediation Dispute is any type of dispute occurring within, involving, relating to or encompassing law practice as expressed in Section I hereof.

B. It is the intent of the Law Practice Mediation Program and the application of these rules that there be sufficient flexibility to encompass a wide, varying and changing type of dispute that may arise within or is related to the law practice venue.

VI. ADMINISTRATIVE TERMINATION OF MEDIATION

The ACMAS Committee reserves the right to decline to accept and/or terminate a mediation case at any time if the parties, mediation participants or mediator fail to abide by these Law Practice Mediation Program Rules, ACMAS case administration procedures or if, for any other reason, the mediator, the ACMAS Executive Committee or ACMAS staff conclude that there is a genuine threat of imminent bodily harm or other danger to person or property or for any other reason the ACMAS Committee or
ACMAS staff determines, in its discretion, renders the scheduling or conduct of the mediation improper.

VII. APPOINTMENT/QUALIFICATION OF PANEL MEDIATORS

After receiving an application and determining that a candidate has met the minimum qualification standards established by ACMAS, the ACMAS Committee shall approve and appoint qualified mediators (who may be lawyers or non-lawyers) to the Law Practice Mediation Program Panel for cases filed and administered under these Rules. The ACMAS Committee shall establish and publish information pertaining to minimum qualifications for panel mediators (which shall include training, education and mediation case experience prerequisites) and the mediator selection and appointment process.

VIII. MEDIATION PROGRAM PROCESS

A. Request for Mediation:

1. A request for mediation may be initiated by an individual request of a single party to the dispute plus the payment of a nonrefundable $150 administrative fee OR by a joint submission by all parties or sides to the dispute and payment of a nonrefundable $75 administrative fee per party to the dispute. By its terms, an individual request asks ACMAS to convene the case by contacting the non-requesting party or parties to seek agreement to mediate the dispute though the Law Practice Mediation Program. The individual request shall include a brief written statement setting forth the following: (i) the nature of the dispute, (ii) the claims being asserted and (iii) the parties' opinion as to the necessary mediation participants. The individual request shall include the identity of all potential mediation participants (parties, attorneys or other representatives, and non-party participants) by providing the following information: name, addresses, telephone number and email address (if available). A joint submission to mediation by all parties shall provide the same information. The individual mediation request or the joint submission form should be in duplicate.

2. An ACMAS “Agreement to Mediate” must be signed to complete the mediation request process and to allow for the selection or appointment of a Law Practice Mediation Program Panel Mediator. Completion of the “Agreement to Mediate” constitutes agreement to designate ACMAS as the administrator of their mediation and agreement to abide by the Law Practice Mediation Program Rules, policies, procedures, guidelines, and regulations as promulgated from time to time by the ACMAS Committee.

B. Mediator Selection:

1. Upon receipt of the parties’ written submission to mediation agreement, ACMAS will provide a list of qualified mediators from its Law Practice Mediation Panel Roster for the parties’ mutual selection of an agreed upon mediator. If parties are unable to agree, and with the parties’ permission and agreement to accept the appointment, ACMAS will appoint a mediator from its Law Practice Mediation Panel Roster.

2. Once notified of his/her selection, the mediator shall contact the parties to schedule the mediation and to address any other matters pertinent to the mediation session.
3. If withdrawal or removal of the mediator prior to the commencement of the mediation occurs, the ACMAS staff shall notify the parties of the situation. Based on the preferences of the parties, either they will select a substitute mediator from the Law Practice Mediation Panel or shall request the ACMAS staff to select and reassign the matter to another mediator.

C. The Mediation Session:

1. Mediation sessions shall be scheduled for either a half day or a full day, unless the parties agree otherwise. Mediators shall conduct the mediation session in accordance with acceptable mediation practices, including, but not limited to: conducting joint conferences (all mediation participants participating) or separate conferences (some but not all mediation participants participating), as deemed appropriate by the mediator; ex parte communication before and/or after the face-to-face mediation sessions where appropriate; and, where feasible and acceptable to all parties, use of electronic, online or other technology based means to conduct the mediation or any portion thereof or to follow-up the mediation session.

2. If a party fails to attend the mediation after having received notice of the session, the mediator shall have the option of rescheduling the mediation, terminating the mediation or going forward with the mediation. The decision to proceed with the mediation in the face of nonattendance by a party shall occur only: a) after discussion with the parties in attendance regarding the benefit and/or detriment of going forward with the mediation; b) with the concurrence of all attending parties; c) with the mediator’s assessment that proceeding with the mediation will not be harmful to the interests of any the absent or participating parties; and d) proceeding with the mediation is not inconsistent with acceptable mediation practices or ethical considerations.

D. Memorializing Settlement Agreement

1. Parties and the mediator are encouraged to reduce their agreement to writing at the mediation session and to consult Evidence Code sections 1123 (Written Settlement Agreement – Conditions for Disclosure and Admissibility) and 1124 (Oral Agreement – Conditions for Disclosure and Admissibility) in connection with the agreement drafting.

2. If a fully executed agreement is prepared at the mediation, the mediator shall provide a copy of the signed agreement to the parties.

3. The mediator is not to be a signatory to any settlement agreement.

4. The mediator shall provide a closing report to ACMAS, declaring whether the parties agree or disagreed and whether mediation is completed on the matter.

E. Termination of the Mediation by the Mediator or Parties:

1. Any party may terminate the mediation.

2. The mediator may terminate the mediation when an impasse is reached, or upon request of a party, or when the mediator believes that further efforts will not be productive or that a resolution or settlement is unlikely, or under other conditions, as set forth in these Rules or in the mediator’s retainer agreement, that justify terminating the mediation.

3. The mediation ends when the conditions of Evidence Code section 1125 are met.
**F. Expenses:**

All expenses that the parties (and/or their representatives) incur resulting from the preparation for or participation in the mediation, including but not limited to, attorneys’ fees, attendance fees, travel or accommodations expenses or document reproduction costs, shall be borne by the party that incurs such costs, unless all parties agree otherwise.

**IX. Mediator Fees**

1. Parties agree to pay an administrative fee as explained in Section VIII (A)(1) of these Law Practice Mediation Program Rules.

2. ACMAS will give the parties three names of mediators with biographical information and rates from which to choose a mediator to handle the matter. The mediators shall have experience in the field that the parties designate. The parties agree to share in the mediator’s compensation.

3. Upon selection of the mediator, the parties shall forward to the Attorney Client Mediation & Arbitration Services (ACMAS) fees for one half-day services. The fees for one half-day consists of the mediator’s hourly rate for four (4) hours of actual mediation time. Payment of the mediator’s fee must reach the program office at least ten days in advance of the mediation.

4. Mediators are not permitted to engage in contingency based fee schedules based on the outcome of the mediation or based on any other criteria. Mediators may not proceed with the mediation unless and until all parties have executed the mediator’s retainer or compensation agreement, which complies with the compensation guidelines set forth in this Rule.

5. Should the mediation session exceed the time for which the parties have paid, the parties are responsible for paying the mediator any additional fee at the time of the mediation session.

6. Mediators are free to set forth cancellation or postponement policies so long as they are not inconsistent with these Rules.

7. Attorney Client Mediation & Arbitration Services is not responsible for the collection of the mediator’s fee. The administrative fee is not refundable.

**X. CONFIDENTIALITY**

1. All communications, negotiations, or settlement discussions by and between participants and/or mediators are to be construed as offers to comprise pursuant to Evidence Code section 1152. The rules of confidentiality, non-admissibility and nondisclosure, as set forth in Evidence Code section 1115 et seq., are applicable to mediations conducted under the Law Practice Mediation Program.

2. Writings, as defined by Evidence Code Section 250, prepared for the purpose of, in the course of or pursuant to a mediation or mediation consultation shall be confidential, inadmissible and not subject to discovery, in accordance with the provisions of California Evidence Code Section 1125 et seq.
3. The Mediator, LACBA Staff, and Committee members shall be deemed ineligible to testify in any civil judicial or quasi-judicial proceeding, including arbitration, as to any statements made at or in connection with the mediation.

4. The parties will be required to sign a LACBA/ACMAS Confidentiality Agreement, in addition to the mediator’s confidentiality agreement (if requested by the mediator) before the start of the mediation.

XI. IMMUNITY

1. In any mediation administered under these Rules, the mediator(s), the Committee, Attorney Client Mediation & Arbitration Services, Inc., the Los Angeles County Bar Association, and their officers, directors, and employees or agents shall have the same immunity which attaches in judicial proceedings.

2. In any mediation administered under these Rules, neither the mediator(s), the Committee, Attorney Client Mediation & Arbitration Services, Inc., the Los Angeles County Bar Association, nor their officers, directors, and employees or agents are a necessary party in judicial proceedings relating to the mediation, nor shall any of them be liable to any party for any act or omission arising out of any proceeding initiated or conducted under these Rules.

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