

THE STEPS TO FILING FOR MEDIATION

The SANTA CLARA COUNTY ASSOCIATION OF REALTORS® offers mediation of disputes with reference to a real estate transaction. If you are involved in a real estate dispute and wish to file for mediation, the following information is provided for your use:

1. Read and complete the following forms: (Note: All Forms must be legible).
 - a. Request for Mediation: Fill out all information on the form. Create an Exhibit and attach any evidence. It is critical that you clearly complete each section, including the correct name(s) and contact information for the responding party to the dispute. We cannot contact the other party without this information. If you don't have this information, your agent can normally help provide this information to you.
 - b. Mediation Confidentiality Agreement: This is the agreement between you and the responding party. (Note: To be completed after the attorney has been assigned.)
 - c. Mediators: Review the flyer which details the biographical background of our Mediator panel. You have the right to disqualify any mediator if you feel that any mediator would not provide you a fair hearing.
2. Provide a payment in the amount of \$100.00 for your half (1/2) of the Administrative Filing Fee. These fees are non-refundable.
3. Email the completed forms, make payment check/credit card: Professional Standards Staff, SCCAOR, Christine@sccaor.com or contact staff at 408 445-5099 to make a payment with a credit card.
4. Once your paperwork is received, a Request for Mediation package will be sent to the Respondent by the Professional Standards Department staff.
5. Once the Responding party returns their completed documents, the dispute will be assigned to a Mediator who was not disqualified by you or the Respondent. The Mediator will then contact each party to arrange a time for the mediation.

If you have any questions, contact the Professional Standards Department by calling 408 445-5099.

MEDIATION FEES

SANTA CLARA COUNTY ASSOCIATION OF REALTORS®

1. **COST OF MEDIATION:** All costs related to the mediation shall be shared equally (50/50) between the parties. If there are two parties, fees will be divided equally. If there are three (3) parties, fees will be split three ways, etc. The charge for mediation services also includes Mediators preparation time (including but not limited to file review, research, scheduling the mediation, travel time, and telephone calls) and is calculated at mediator's hourly rate in ¼ hour increments. Should the preparation time and mediation actually exceed three (3) hours at the party's request, any additional time will be payable at the end of the mediation and share equally between the parties.
2. Should either party be a member of Santa Clara County Association of REALTORS®, the mediation fees will be waived.

<u>DESCRIPTION</u>	<u>FEE</u>	<u>EXPLANATION</u>
Mediation Admin fee	\$200.00	Non-refundable, split equally by parties.
Mediator's Retainer	\$600.00	Split equally between the parties and paid to the mediator prior to the mediation. This will cover three (3) hours of the mediator's time.
Mediator fee	\$200.00 per hr.	Should mediation exceed three hours, this fee in ¼ hour increments will be split equally by the parties and paid at the end of the mediation.
Continuance fee	\$150.00	To be paid by the party requesting the continuance. It increases to \$250.00 on the second time.
Conference Room	\$100.00	Optional, if room needed (first 3 hours + \$75.00 each additional hour shared equally by the parties) paid in advance.

CALIFORNIA'S FIRST REAL ESTATE BOARD

*SCCAOR exists to meet the business, professional and political needs of its members
 and to promote and protect home ownership and private property rights.*

3. **SETTLEMENTS, CONTINUANCES AND CANCELLATIONS:** If the dispute is settled between the parties or the mediation cancelled after the retainers have been paid but prior to the mediation being scheduled, the mediator will deduct an amount equal to the time spent in preparation for the mediation, and return any unused retainer. Cancellations or settlement of the dispute after the mediation date has been set will result in a cancellation fee equal to two (2) hours of mediation time, or \$400.00. The remainder will be returned to the parties.

If within ten (10) calendar days prior to the scheduled mediation date, if any party experiences an emergency and need to continue (reschedule) the mediation, a \$150.00 continuance fee must be paid to the mediator by the party requesting the continuance. A second continuance by the same party will increase to \$250.00. All requests for continuances must be in writing and sent to the mediator. Since re-scheduling of the parties is extremely difficult, continuances are strongly discouraged.

MEDIATOR BIOGRAPHIES

WILLIAM B. CLAYTON, JR.

Clayton & McEvoy, P.C.
333 W Santa Clara St #950
San Jose California 95113
(408) 293-9100
Email: wbc@clayton-mcevoy.com

Primary Business: Attorney emphasizing real estate and business both transactional and litigation.

Mediator Since: 1985; Pepperdine University School of Law Strauss Institute For Dispute Resolution, 2013.

Types of Disputes: Fee Disputes, binding and non binding arbitrations, individual and panel, mediations on a wide variety of subjects within the scope of emphasis in the field of real estate and business. Disputes involving residential, brokerage, land use, development, commercial leases and sales and syndications.

Experience: 38 years as a practicing attorney in residential and commercial real estate disputes. Experience began in 1985 as a mediator/arbitrator in the Santa Clara County Small Claims Court program and developed during the practice of law.

JEFFREY HARE, ESQ.

Jeffrey B. Hare, APC
A Professional Corporation
501 Stockton Ave.
San Jose, CA 95126
408 690-2998
Email: jeff@jeffreyhare.com

Primary Business: Real estate attorney, handling both residential and commercial transactions: background in land use, code enforcement and zoning regulations in both public and private sector matters.

Mediator since: 1999. Completed Santa Clara County Office of Human Relations 40-hour.

Types of Disputes: All types arising out of real estate and business transactions, contract disputes, real estate investments, partnerships and enterprises; disputes involving both individuals and entities.

Experience: 30 years practicing in both public and private sector; 17 years Adjunct Faculty at Santa Clara University School of Law, teaching Negotiations; provided educational programs and panel presentations for SCCAOR, SJREI, Past Chair, Santa Clara County Bar Real Property Section. Licensed Real Estate Broker.

ANTHONY F. VENTURA, ESQ.

Ventura, Rossi, Hersey, Muller
160 W. Santa Clara Street, Suite 1575
San Jose, CA 95113
(408) 512-3022
Email: aventura@venturarossi.com

Primary Business: Partner in a law firm with practice involving real estate, business and insurance litigation.

Mediator since: 1998

Types of Disputes: Mediation and non-binding arbitrations involving real estate transactions.

Experience: Mr. Ventura has been practicing real estate law for over fifteen years. Since 2007, Mr. Ventura has served as a mediator for SCCAOR and for real estate-related disputes. Mr. Ventura also gives seminars regarding real estate topics for the Santa Clara County Association of REALTORS® and various escrow companies and brokers.

REQUEST FOR MEDIATION

SANTA CLARA COUNTY ASSOCIATION OF REALTORS®

As an alternative to arbitration, the Association has available mediation. Mediation is a dispute resolution process whereby a mediator works with you and the other parties to facilitate a mutually acceptable resolution of your dispute. In comparison to arbitration, mediation is usually less adversarial and less formal and the parties are more directly involved in the decision making process to resolve their dispute. As a general policy, the Association promotes mediation and strongly encourages you to consider using mediation.

While the Association promotes mediation, please be advised of the following. If you are the complainant in the dispute, you still need to file an arbitration complaint with the Association to preserve your right to arbitration. Also, mediation is a voluntary process and a mediation conference can only be scheduled for those parties that agree to mediation. If any party to your dispute does not agree to mediation, arbitration will be necessary to resolve the dispute as it pertains to you and those parties. Finally, if you are unable to reach a mutually acceptable resolution of the dispute through mediation, an arbitration hearing will have to be scheduled.

If you agree to use mediation, please provide the information requested below. If other parties agree to mediation, we will notify you and schedule a mediation conference as appropriate. Thank you.

☐ I agree to mediation in accordance with the Association's mediation guidelines and procedures with the following parties*:

☐ I do not agree to mediation in accordance with the Association's mediation guidelines and procedures with the following parties*:

RESPONDENT (S) :

(1) _____
Name (Type or Print)

Firm _____

DRE Number _____

Street Address _____

City, State, Zip _____

RESPONDENT (S) :

(2) _____
Name of Manager (Type or Print)

Firm _____

DRE Number _____

Street Address _____

City, State, Zip _____

COMPLAINANT(S):

(1) _____
Name (Type or Print)

Firm _____

DRE Number _____

Street Address

City, State, Zip

*Use additional sheets if necessary.

I will not be available for a mediation conference on the following dates:

Date: _____

(Type/Print Your Name)

COMPLAINANT(S):

(2) _____
Name of Manager (Type or Print)

Firm _____

DRE Number _____

Street Address

City, State, Zip

Signature

Please return to:

Attn: Christine Borg
Professional Standards Coordinator
Telephone: 408 445-5099
Christine@sccaor.com

SANTA CLARA COUNTY ASSOCIATION OF REALTORS®
1651 North First Street
San Jose, CA 95112