

5.10 | CONFIDENTIALITY IN MEDIATION

A. Confidential Treatment. Mediation is confidential and private. No participant in the mediation process or any portion thereof may communicate confidential information acquired during mediation without the consent of the disclosing party. There shall be no stenographic or electronic recording, e.g., audio or visual, of the mediation process.

1. All written and oral communications made in connection with or during the mediation session, any positions taken and any views of the merits of the case formed by any participant, including parties, counsel and the Mediator, are privileged and confidential.

2. There shall be no communication between the assigned Judge or designated Magistrate Judge and the Mediator regarding a case referred for mediation.

3. No communication made in connection with or during any mediation session may be disclosed or used for any purpose including impeachment in any pending or future proceeding in the Court.

4. The confidentiality of information disclosed during mediation does not prohibit or limit:

- [a] the Court from collecting information relative to evaluation of the ADR program;

- [b] the Mediator from reporting a failure to participate in the ADR process in good faith, except that the Mediator shall not disclose the content of confidential communications;

- [c] the Mediator from filing "*Mediation Certification*" forms pursuant to 5.11;

- [d] a party from seeking to enforce a settlement agreement;

- [e] a party from disclosing the final resolution and settlement reached unless, in the interest of justice, the parties have agreed to the confidentiality of same; or

- [f] a participant from making such disclosures as are required by law.



*(US District Court, New York, Western District // Buffalo, NY 14202
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