



**IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA**

**IN RE: MOUNTAIN STATE UNIVERSITY LITIGATION      Civil Action No. 12-C-9000**

**THIS DOCUMENT APPLIES TO ALL CASES**

**THIRD ORDER RECONVENING MEDIATION**

The Resolution Judges assigned to the Mountain State University Litigation will reconvene mediation **on July 30, 2014, at 9:00 a.m.** in Courtroom Four, also known as the Ceremonial Courtroom, on the Second Floor of the Kanawha County Courthouse, at 409 Virginia Street, East, in Charleston, West Virginia. Mediation will be conducted from July 30, 2014 through August 1, 2014, at the discretion of the Resolution Judges.

**MEDIATION PARTICIPANTS**

1. If a Plaintiff has executed an authorization giving **full authority** to their attorney to act on their behalf, including full authority to negotiate settlement of their case and to respond to developments during the mediation process, the Plaintiff is not required to attend mediation. If a Plaintiff chooses to attend mediation, the Plaintiff must sign in and produce proof of identification.
2. The following participants are required to participate in mediation **in person**:
  - (a) Plaintiffs' Liaison Counsel;
  - (b) counsel and the corporate representative for Mountain State University, Inc. and the Mountain State University Board of Trustees;
  - (c) counsel and the corporate representative for the University of Charleston and the University of Charleston Board of Trustees; and
  - (d) counsel for United Educators Insurance.

**FAILURE OF ANY PARTICIPANT REQUIRED TO ATTEND MEDIATION IN**

**PERSON SHALL SUBJECT THAT PARTICIPANT TO SANCTIONS.**

3. Counsel and any corporate representative participating in mediation must be familiar with the cases to be mediated and must have **full authority** to act on behalf of the party or parties they represent, including full authority to negotiate a resolution of the cases and to respond to developments during the mediation process.

**SUPPLEMENTAL MEDIATION STATEMENTS**

4. Mountain State University and the University of Charleston are **ORDERED** to submit a supplemental mediation statement to Lead Resolution Judge Booker T. Stephens, Resolution Judge Jay M. Hoke, and Resolution Judge David W. Hummel, Jr by no later than **July 22, 2014**. The supplemental mediation statements shall discuss all remaining issues that must be mediated in order to fully resolve the Mountain State University Litigation. The parties are reminded that supplemental mediation statements are confidential. Each party must place their supplemental mediation statement in a sealed envelope marked, **“CONFIDENTIAL SUPPLEMENTAL MEDIATION STATEMENT.”**

The supplemental mediation statements shall be hand delivered to Mass Litigation Manager Kimberley R. Fields for Judge Stephens, and shall be delivered by Federal Express, UPS or any other express mail service with tracking capability to Judge Hoke and Judge Hummel.

**EX PARTE CONTACTS**

5. Before, during and after the reconvened mediation, the Resolution Judges may find it necessary and useful to communicate with one or more parties outside the presence of the other party or parties.

### **OBLIGATION OF GOOD FAITH PARTICIPATION**

6. The required participants shall attend the entire mediation in person and shall be available and accessible throughout the mediation process. No party may be compelled by this Order, the Mass Litigation Panel, or The Resolution Judges to settle a case involuntarily or against the party's judgment. However, the Resolution Judges expect the parties' full and good faith cooperation with the mediation process, and expect the participants to be prepared to participate fully, openly and knowledgeably in a mutual effort to examine and resolve issues. The Resolution Judges encourage all participants to keep an open mind in order to reassess their previous positions and to find creative means for resolving the dispute.

### **IMPOSITION OF SANCTIONS**

7. **All counsel are reminded of their obligations to read and comply with this Order.**

To avoid the imposition of sanctions, counsel shall advise the Resolution Judges immediately of any problems regarding compliance with this Order.

It is so **ORDERED**.

ENTER: July 21, 2014

/s/ Booker T. Stephens  
Lead Resolution Judge  
Mountain State University Litigation