

OMBUDSMAN/MEDIATION/ARBITRATION PROCESS

The Northeast Florida Association of REALTORS® ("NEFAR"), a professional trade association, offers its members and the public several dispute resolution options, regarding disagreements over the details of a real estate transaction. These services are: 1) utilizing our Ombudsman service; 2) filing an Ethics Complaint against a REALTOR®, for a possible violation of the Code of Ethics of the National Association of REALTORS and/or other membership duty; and/or, 3) filing a request for arbitration with a REALTOR®, for a commission/compensation dispute.

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You, the potential complainant, may first like to take advantage of our **OMBUDSMAN SERVICE**:

Our trained Ombudsmen will: listen to your concerns; ascertain your desired outcome; explain possible avenues that might resolve the issue or reach the desired outcome; answer general questions and/or procedural questions; contact the REALTOR/potential respondent to explain your concerns and desired outcome; tries to bring resolution; reports back to you; and, explains your rights after the completion of the Ombudsman process.

To request an Ombudsman's service, please complete the [Ombudsman Request](#) form and submit it as directed at the bottom of the form.

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The following is a brief overview of the **MEDIATION/ARBITRATION PROCESS**:

Mediation is a voluntary process that is offered prior to, or in lieu of, a more formal arbitration, by which REALTORS® who are disputing a claim to a real estate commission or compensation, or REALTORS® and their clients or customers who have a dispute arising out of an agency relationship, can meet (virtually), and with the assistance of a Mediation Officer, attempt to resolve their differences and find an amicable resolution of their disagreement.

The parties to a mediation, as it is a voluntary submission, may withdraw from the process at any point prior to reaching an agreement. Any offers of settlement that were not accepted, or any suggested resolution proposed by the Mediation Officer that was not accepted, will not be introduced as evidence nor considered in any manner should the matter require arbitration by the Association's Professional Standards Committee. However, if the parties agree to a settlement of the dispute, and the settlement has been reduced to writing and has been signed by all of the parties, the matter is deemed resolved and cannot be the subject of a subsequent arbitration hearing. In the event either of the parties later

fails to abide by the terms of the settlement, the matter may not be arbitrated, but should be judicially enforced.

Arbitration is a more formal process by which REALTORS® who are disputing a claim to a real estate commission or compensation, or REALTORS® and their clients or customers who have a dispute arising out of an agency relationship, may come to the Association and request an impartial panel of the Professional Standards Committee to hear the evidence and render a decision on who is entitled to the commission/compensation on the basis of evidence and testimony presented at an Arbitration Hearing.

NEFAR is holding all Mediations/Arbitrations virtually. If you do not already have a Zoom account, you will need to set one up by going to <https://zoom.us/freesignup/> and sign up for a new account. It's free! Then, if you do not already have a Dropbox account, you will need to go to <https://www.dropbox.com/basic>, to sign up for a free Dropbox Basic account, in order to participate in a virtual hearing. Your audio and video must be on for the entirety of the hearing.

A Request and Agreement to Arbitrate ("Request") must be filed via email, in a **pdf** format, to susanr@nefar.com, within one hundred eighty (180) after the closing of the transaction, if any, or within one hundred eighty (180) days after the facts constituting the arbitrable matter could have been known in the exercise of reasonable diligence, whichever is later, along with the required \$500 filing deposit. Arrangements can be made to make the filing deposit online, by request to Susan Rodehaver at susanr@nefar.com.

The advantages of this system are many: it is inexpensive (a \$500 filing deposit is required from each party), private, and it is a judgement by one's peers.

When the Association receives a Request to arbitrate, the opportunity to mediate is offered. If either party declines or the mediation is unsuccessful, the Request is reviewed by the NEFAR Grievance Committee to determine if the matter is properly arbitrable by NEFAR. If so, a copy of the Request will be provided to the Respondent and the parties will once again be offered an opportunity to mediate or the Respondent can file their Response and Agreement to Arbitrate ("Response"), along with their \$500 filing deposit, within fifteen (15) days, so the matter can be scheduled for arbitration before an arbitration hearing panel of the Professional Standards Committee.

* * * * *

There is no appeal to an arbitration decision, except for denial of due process.

Ombudsmen, Mediation Officers, and members of hearing, arbitration, and appeal panels are chosen for their judicious temperament and expertise in the real estate profession.

For further information on the Ombudsman, Ethics Complaint, Mediation, and/or Arbitration process, please contact Susan Rodehaver, Professional Standards Administrator, at (904) 394-9137, Monday - Friday, 8:30am - 5:00pm EST.

Ombudsman Request

Date: _____

Name of Complainant: _____

Firm (if any): _____

Address: _____

Preferred phone for contact: _____

Best time to contact you: _____

Role in transaction: _____
(Buyer, Seller, Agent, Broker)

Subject property (if any): _____

Name of Respondent: _____

Firm (if any): _____

Address: _____

Phone: _____

Role in transaction: _____
(Buyer, Seller, Agent, Broker)

What issue would you like the Ombudsman to resolve?*

(Attach additional information, if necessary.)

Return via email in **pdf format** to:

Susan Rodehaver, NEFAR's Professional Standards Administrator, at
susanr@nefar.com

*All information on this form is confidential. NEFAR will destroy this form and any other documents and materials pertaining to this matter at the conclusion of the ombudsman service. NEFAR is not responsible for, and shall be held harmless from, the failure of any party to perform or fulfill any promise or agreement entered into as a part of the ombudsman service.

Northeast Florida Association of REALTORS®, Inc.
(Board or State Association)

7801 Deercreek Club Road, Jacksonville, Florida 32256

(Address)

(City)

(State)

(Zip)

Request and Agreement to Arbitrate

1. The undersigned, by becoming and remaining a member of the Northeast Florida Association of REALTORS®, Inc. (the Association) (or Participant in its MLS), has previously consented to arbitration through the Association under its rules and regulations.
2. I am informed that each person named below is a member in good standing of the Association (or Participant in its MLS), or was a member of the Association at the time the dispute arose.
3. A dispute arising out of the real estate business as defined by Article 17 of the Code of Ethics exists between me (or my firm) and (list all persons and/or firms you wish to name as respondents to this arbitration):

_____, REALTOR® principal* _____
 (Name) (Address)

_____, REALTOR® principal* _____
 (Name) (Address)

_____, REALTOR® principal* _____
 (Firm) (Address)

(NOTE: Arbitration is generally conducted between REALTORS® [principals] or between firms comprised of REALTOR® principals. Naming a REALTOR [principal] as respondent enables the complainant to know who will participate in the hearing from the respondent's firm; naming a firm may increase the likelihood of collecting any resulting award.)

4. There is due, unpaid and owing to me (or I retain) from the above-named persons the sum of \$_____. My claim is predicated upon the statement attached, marked I and incorporated by reference into this application. The disputed funds are currently held by _____.

Parties are strongly encouraged to provide any and all documents and evidence they intend to introduce during the hearing to the other party(ies) and the association prior to the day of the hearing. Providing documents and evidence in advance can expedite the hearing process and prevent costly, unnecessary continuances.

5. I request and consent to arbitration through the Association in accordance with its Code of Ethics and Arbitration Manual (alternatively, "in accordance with the professional standards procedures set forth in the bylaws of the Association"). I agree to abide by the arbitration award and, if I am the non-prevailing party, to, within ten (10) days following transmittal of the award, either (1) pay the award to the party(ies) named in the award or (2) deposit the funds with the Professional Standards Administrator to be held in an escrow or trust account maintained for this purpose. Failure to satisfy the award or to deposit funds in the escrow or trust account within this time period may be considered a violation of a membership duty and may subject the member to disciplinary action at the discretion of the Board of Directors consistent with Section 53, The Award, Code of Ethics and Arbitration Manual.

In the event I do not comply with the arbitration award and it is necessary for any party to this arbitration to obtain judicial confirmation and enforcement of the arbitration award against me, I agree to pay the party obtaining such confirmation the costs and reasonable attorney's fees incurred in obtaining such confirmation and enforcement.

6. I understand any party may request mediation of a dispute by contacting the association's Professional Standards Administrator.
7. I have paid the sum of \$ 500.00 for the arbitration filing deposit (online).**
8. I understand that I may be represented by legal counsel, and that I should give written notice no less than fifteen (15) days before the hearing of the name, address, and phone number of my attorney to all parties and the Association. Failure to provide this notice may result in a continuance of the hearing, if the Hearing Panel determines that the rights of the other party(ies) require representation.

* Complainants may name one or more REALTOR® principals or a firm comprised of REALTOR® principals as respondent(s). Or, complainants may name REALTOR® principals and firms as respondents. "REALTOR principal" includes licensed or certified individuals who are sole proprietors, partners in a partnership, officers or majority shareholders of a corporation, or office managers (including branch office managers) acting on behalf of principals of a real estate firm.
 ** Not to exceed \$500

9. Each party must provide a list of the names of witnesses he intends to call at the hearing to the Association and to all other parties not less than fifteen (15) days prior to the hearing. Each party shall arrange for his witnesses to be present at the time and place designated for the hearing.

All parties appearing at a hearing may be called as a witness without advance notice.

10. The following REALTOR® non-principal affiliated with my firm has a financial interest in the outcome of the proceeding and may be called as a witness, and may, at my discretion, be present throughout the hearing: _____

11. I declare that this application and the allegations contained herein are true and correct to the best of my knowledge and belief and this request for arbitration is filed within one hundred eighty (180) days after the closing of the transaction, if any, or within one hundred eighty (180) days after the facts constituting the arbitrable matter could have been known by the complainant in the exercise of reasonable diligence, whichever is later.

Date(s) alleged dispute took place: _____

12. If either party to an arbitration request believes that the Grievance Committee has incorrectly classified the issue presented in the request (i.e., mandatory or voluntary), the party has twenty (20) days from the date of transmittal of the Grievance Committee's decision to file a written appeal of the decision. Only those materials that the Grievance Committee had at the time of its determination may be considered with the appeal by the Board of Directors.

13. Are the circumstances giving rise to this arbitration request the subject of civil litigation? _____ Yes _____ No

14. Important note related to arbitration conducted pursuant to Standard of Practice 17-4 (1) or (2): Where arbitration is conducted between two (or more) cooperating brokers pursuant to Standard of Practice 17-4 (1) or (2), the amount in dispute and the amount of any potential resulting award is limited to the amount paid to the respondent by the listing broker, seller, or landlord and any amount credited or paid to a party to the transaction at the direction of the respondent.

15. Address of the property in the transaction giving rise to this arbitration request: _____

16. The sale/lease closed on: _____

17. Agreements to arbitrate are irrevocable except as otherwise provided under state law.

Complainant(s) :

Name (Type/Print) Signature of REALTOR® principal* Date

Address

Telephone Email

Name (Type/Print) Signature of REALTOR® principal* Date

Address

Telephone Email

Name of Firm* Address

*In cases where arbitration is requested in the name of a firm comprised of REALTORS® (principals), the request must be signed by at least one of the REALTOR® principals of the firm as a co-complainant. "REALTOR principal" includes licensed or certified individuals who are sole proprietors, partners in a partnership, officers or majority shareholders of a corporation, or office managers (including branch office managers) acting on behalf of principals of a real estate firm.
(Revised 11/23)

Mediate Before Grievance

PLEASE EXECUTE AND RETURN THIS FORM

For your information:

Upon receipt of an arbitration request, mediation services are hereby offered to disputants, **prior** to the review of the arbitration request by the Grievance Committee, except where any party requests that the Grievance Committee determine whether an arbitrable issue exists between the named parties and whether the parties would be required to arbitrate.

The Northeast Florida Association of REALTORS ("NEFAR") makes the following inquiry:

Are you willing to participate in a voluntary mediation, **prior** to the Grievance Committee's determination as to whether or not the Request* is arbitrable by NEFAR and mandatory or voluntary in nature?

Yes or No

Printed name

Signature

Date

Note: You will again be offered an opportunity to voluntarily mediate, after the Grievance Committee reviews the Request*, if the Grievance Committee determines that an arbitrable issue exists.

* Request and Agreement to Arbitrate (Form #A-1 or Form #A-2)

Northeast Florida Association of REALTORS®, Inc.
Association

7801 Deercreek Club Road, Jacksonville, Florida 32256
Address City State Zip

Request for Mediation

In the matter of _____
Complainants v. Respondents

I am requesting mediation with the above-named disputant. There is due, unpaid, and owing to me (or I retain) from the above-named person the sum of \$_____. My claim is predicated upon the statement attached, marked Exhibit I and incorporated by reference into this application.

Signature of REALTOR® Principal/Authorized Designee

Date

Type/Print Name

Phone

Address

City

State

Zip

(Amended 11/12)

Agreement to Mediate
(To be used for Mediation between REALTOR® Members)

The undersigned agree that they are involved in a contractual dispute defined by Article 17 of the Code of Ethics or in a specific non-contractual dispute as outlined in Standard of Practice 17-4.

The undersigned agrees to submit this dispute to mediation in accordance with the mediation guidelines, as set forth in the *Code of Ethics and Arbitration Manual* of the National Association of REALTORS®, Inc.

Any Agreement signed by the parties, pursuant to the mediation conference, shall be binding.

As a party to the mediation process I understand and agree as follows:

Parties to mediation may withdraw from the process at any point prior to reaching an agreement. Parties to mediation that do not reach an agreement shall be free to pursue arbitration of the dispute in accordance with the guidelines set forth in the *Code of Ethics and Arbitration Manual* of the NATIONAL ASSOCIATION OF REALTORS®. The Parties acknowledge that the mediator is not providing legal representation, legal advice, or legal services, and that the parties are advised of their right to be represented by counsel at the mediation and also of their right to obtain independent legal advice (if counsel are not at the mediation) before signing any final settlement agreement.

Any offers of settlement that were not accepted or any suggested resolution proposed by the Mediation Officer that was not accepted will not be introduced as evidence nor considered in any manner should the matter require arbitration by the Board's Professional Standards committee. However, if the parties agree to a settlement of the dispute, and the settlement is reduced to writing and has been signed by all of the parties, the matter shall be considered resolved, and shall not be the subject of a subsequent arbitration hearing. In the event that either of the parties fails to abide by the terms of the settlement, the matter may not be arbitrated; instead, the other party should be encouraged to have the settlement agreement judicially enforced by a court of competent jurisdiction.

No aspect of this mediation conference shall be relied upon or introduced as evidence in any ethics, arbitration, judicial, or other proceeding, including, but not limited to: views expressed or suggestions made by a party with respect to a possible settlement of the dispute; admissions made in the course of the mediation; proposals made or views expressed by the Mediator or the response of any party thereto. No privilege shall be affected by disclosures made in the course of mediation. Disclosure of any records, reports or other documents received or prepared by the Board or Mediation Officer shall not be compelled. Neither the Board or the Mediation Officer shall be compelled to disclose or to testify in any proceeding as to information disclosed or representations made in the course of the mediation or communication to the Mediator in confidence. Neither the mediation Officer, the Northeast Florida Association of REALTORS®, the Florida Association of REALTORS®, nor the National Association of REALTORS®, or any of its Member Boards shall be deemed "necessary parties" in any judicial proceedings relating to mediation under this Agreement. The parties acknowledge that the mediation proceedings will not be tape recorded and that weapons of any type are prohibited.

Are the circumstances giving rise to this request for Mediation the subject of civil or criminal litigation or in any proceeding before the state real estate licensing authority or any other state or federal regulatory or administrative agency? Yes No

By my signature on this Agreement to Mediate, I acknowledge my rights and agree to the terms of the mediation procedures as stated above. I hereby affirm that I have the authority to enter into and sign a binding written agreement to settle this dispute.

Complainants:

Type/Print Name

Signature Date

Address

Type/Print Name

Signature Date

Address

Respondents:

Type/Print Name

Signature Date

Address

Type/Print Name

Signature Date

Address

(Adopted 11/12)

Mediation Officer Selection Form
(To be used for mediation between REALTOR® Members)

In the matter of _____
Complainants v. Respondents

The following individuals have agreed to serve as Mediation Officers for disputes between REALTOR® members of the Northeast Florida Association of REALTORS®, Inc. As a party to this mediation, you have the right to challenge any Mediator that you believe would not be acceptable to serve as the Mediation Officer for your mediation conference. This form must be returned to the Association office, with the Agreement to Mediate, by _____.

Name: George Barnes - George Barnes, Broker
I (will) (will not reason _____) accept this person as a Mediator for this dispute.

Name: Elizabeth "Liz" McMahan - The Legends of Real Estate
I (will) (will not reason _____) accept this person as a Mediator for this dispute.

Name: Linda McMorrow - The Legends of Real Estate
I (will) (will not reason _____) accept this person as a Mediator for this dispute.

Name: Michele Rollins - L A & Associates Realty, Inc.
I (will) (will not reason _____) accept this person as a Mediator for this dispute.

Name of REALTOR® Principal/Authorized Designee (Type/Print)

Signature of REALTOR® Principal/Authorized Designee
(Adopted 11/11)

Date