



MAGISTRATE JUDGE JEANNICE W. APPENTENG
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STANDING ORDER FOR SETTLEMENT CONFERENCES

The Court encourages the parties to fully consider settlement at the earliest reasonable opportunity in the case. For those cases that can be resolved through settlement, early consideration of settlement allows the parties to avoid the substantial amounts of time and money that are typically part of litigation. Even if the case cannot be settled, early consideration of settlement often can result in focusing the issues to be litigated, which again can save the parties considerable time and money.

A settlement conference requires serious and thorough preparation. This Order sets out the procedures the parties are to follow in preparing for the settlement conference, and the procedures that the Court typically will employ in conducting the conference. Failure to comply with the procedures set forth in this Order may result in the unilateral cancellation of the settlement conference by the Court.

Counsel are directed to provide a copy of this Order to their clients and discuss these procedures with them before the settlement conference.

A. Initial Status Hearing and Joint Status Report on Settlement

Upon referral of a case for a settlement conference, the Court will generally hold an initial telephonic status hearing to set dates for the settlement conference and for the parties to exchange pre-conference settlement letters. Counsel primarily responsible for representing the parties must participate in this initial status

hearing. Counsel should come prepared to discuss the availability of the attorneys and decisionmakers who will participate in the settlement conference, consistent with the requirements of this order.

Prior to the initial status hearing, the Court will direct the parties to submit a joint status report addressing the following issues: (1) whether the parties have the necessary information to conduct meaningful settlement discussions; (2) the earliest anticipated date when all parties will be ready to participate in a productive settlement conference; (3) whether the parties have engaged in previous settlement discussions and the current status of those discussions; (4) the individuals who will be present at the settlement conference on behalf of their respective parties, consistent with the requirements of this order; and (5) whether there are outstanding lien holders or third parties who must provide information or should participate in the settlement conference.

B. Pre-Settlement Conference Letters and Further Discussions

The parties are required to exchange settlement letters before the conference. Settlement conferences are likely to be more productive if the parties have had a written exchange of their settlement positions. The letters also provide the Court with information it needs to assist the parties in exploring settlement.

Each party shall email a copy of its letter to the Court's chambers on the same day that it is provided to opposing counsel. The subject line of the email shall include the case name, case number, and the date of the settlement conference.

The email address for the submission of settlement letters to the Court is Settlement_Correspondence_Appenteng@ilnd.uscourts.gov. These letters are **not** electronically filed on the court docket, will not be made part of the Court's record, and will not be admissible as evidence.

Plaintiff's settlement letter must set forth the following information: (a) the nature of the case; (b) a brief summary of the evidence and legal principles that support plaintiff's theory of liability, damages, and any other relief; (c) an itemization of damages; (d) a settlement demand; and (e) any additional information plaintiff believes would be helpful to the Court in assisting the parties to resolve the dispute. Plaintiff's settlement demand must be all inclusive and specify each element of monetary and non-monetary relief that plaintiff seeks to settle the case. For example, a settlement demand stating that plaintiff seeks \$20,000, a reasonable accommodation, and her reasonable attorney's fees and costs is non-compliant because it does not specify the particular accommodation and the specific fees and costs that are sought. Finally, plaintiffs are expected to submit a demand that is **not** what they expect to win at trial, but rather a number that takes into account the risk

that plaintiff might lose the case and cost savings from settling before dispositive motions are filed and/or trial. Settlement demands that state the maximum relief that plaintiff might recover at trial are unproductive.

Defendant's settlement letter must set forth the theory of defense and shall include the following information: (a) any point(s) in plaintiff's letter with which the defendant agrees; (b) any point(s) in plaintiff's letter with which defendant disagrees; (c) a settlement offer that is responsive to the monetary and non-monetary elements of relief that plaintiff seeks in its settlement demand; and (d) any additional information defendant believes would be helpful to the Court in assisting the parties to resolve the dispute. Defendants are expected to make a settlement offer that does *not* assume that there will be no liability.

All parties shall include within their letters the names and titles of the individuals they anticipate will be attending the settlement conference. Parties must **limit settlement letters to six pages**, exclusive of exhibits, unless they obtain leave of Court, which may be obtained by emailing the Courtroom Deputy. Parties must submit courtesy copies of any submissions (inclusive of exhibits) longer than ten pages.

The parties should invest sufficient time and effort when preparing their settlement letters because the Court finds that thoughtful and detailed letters are critical to productive settlement discussions. Parties are forewarned that failure to account for the risks and costs associated with proceeding with litigation in their settlement positions may result in the Court unilaterally canceling the settlement conference to avoid wasting the parties' time and money, as well as Court resources.

Counsel are required to provide the full set of settlement letters to their clients to read prior to the conference. On occasion, this exchange process itself will lead to a settlement. The fact that a settlement conference has been scheduled does not mean that the parties should stop engaging in settlement discussions among themselves. Indeed, the parties should have multiple discussions about settlement between the date the Court sets the settlement conference and the date of the settlement conference.

In most cases, the Court will hold a **second** telephonic conference to discuss the information in the letters. During the telephone conference, the Court will seek to identify any issues or disputes that can be addressed or resolved prior to the settlement conference and will review the offers with the parties. The Court will also assess whether the parties continue to believe that a settlement conference will be productive. The Court may also separately contact counsel for one or both parties but will let the other party or parties know if/when this happens.

C. Persons Required to Attend the Settlement Conference

Parties with full settlement authority are required to attend the conference. If a party is an individual, that individual must attend. If a party is a corporation or governmental entity, a representative of that corporation or governmental entity (in addition to counsel of record) with full settlement authority must attend. “Full settlement authority” means the authority to negotiate and agree to a binding settlement agreement at any level up to the settlement demand of the opposing party. If a party requires approval by an insurer to settle, then a representative of the insurer with full and complete settlement authority must attend.

The Court strongly believes that the presence of the individuals with a stake in the outcome of the settlement conference, and their participation in the settlement discussions and in the compromise that occurs at the conference, materially increases the chances of settlement. The Court will not permit a party, party representative, or an insurance representative merely to be available by telephone during the conference. In addition, absent Court permission, failure to attend or attendance without full settlement authority may result in sanctions. If a conference must be adjourned or continued so that a party can obtain additional authority to reach a settlement that was reasonably within the realm of possibility for the case, that party may be sanctioned, including being required to pay the opposing party’s attorney’s fees and costs incurred by the need to reconvene. *See* Fed.R.Civ.P.16(c)(1), 16(f)(1)(A) and (B), and 16(f)(2).

D. Conference Format

Unless the parties request that a settlement conference take place in-person in the courthouse, the settlement conference will proceed remotely via videoconference, as set forth in this order.

The Court generally will follow a mediation format, which will begin with a joint session consisting of short opening remarks and questions by the Court, and no opening statements by counsel or the parties. The opening joint session will be followed by each party having private caucuses with the Court. The Court expects the lawyers and the parties or their representatives to be fully prepared to participate in these discussions. The Court encourages all parties to be willing to reassess their previous positions and to be willing to explore creative means for resolving the dispute.

The Court encourages the parties and counsel to consider providing opportunities to junior lawyers to substantively participate in the settlement conference.

E. Videoconference Procedures

If the settlement conference is by videoconferencing technology, the Court's staff will hold a test run with the parties at least 30 minutes prior to the conference. All attorneys and party representatives must log on at that time. All attorneys are responsible for themselves and their clients in ensuring an error-free settlement conference. This includes functioning cameras, speakers, and microphones without static or interference. The Court will **not** allow any counsel or party to appear using a cell phone. All participants must use a computer or tablet or be in the same room as someone with a computer or tablet. The Court uses the Cisco Webex platform for videoconferences. Any counsel may email the Courtroom Deputy for a test run several days before the conference if they are concerned about the technology.


F. Confidentiality

The pre-conference letters and the settlement conference are governed by Local Rule 83.5 relating to Confidentiality of Alternative Dispute Resolution Proceedings. Any statements made by any party during the settlement conference will not be admissible at trial. The Court expects the parties to address each other with courtesy and respect, and also to speak frankly and openly about their views of the case in this confidential setting.

G. Failure to Appear and Cancellation of the Conference

Counsel and the parties are cautioned that failure to attend a settlement conference may subject a party to sanctions. Absent exigent circumstances, no conference shall be rescheduled except by court order pursuant to a written motion electronically filed and emailed to the Courtroom Deputy not less than 10 days in advance of the conference. The motion shall fully explain the reasons for the requested continuance. If the parties conclude that a settlement conference is no longer necessary, they should inform the Court via email to the Courtroom Deputy as soon as possible.

SO ORDERED.


Jeannice W. Appenteng
United States Magistrate Judge

Dated: November 2, 2023