



JUDGE MARY M. ROWLAND
219 South Dearborn Street
Chicago, IL 60604

Courtroom 1225

Courtroom Deputy: Dawn Moreno
dawn_moreno@ilnd.uscourts.gov
(312) 435-5857

STANDING ORDER FOR SETTLEMENT CONFERENCES

Consideration of settlement is a serious matter that requires thorough preparation prior to the settlement conference. Set forth below are the procedures Judge Rowland requires parties to follow and the procedures she employs in conducting settlement conferences.

Judge Rowland encourages counsel to request a court-assisted settlement conference or referral to the magistrate judge for settlement if all counsel believe it could be productive. For settlement conferences before Judge Rowland, the format and procedures generally used are set forth in this Standing Order. In advance of the conference, counsel will be expected to identify the individuals who will be present at the settlement conference on behalf of their respective parties, consistent with the requirements of this Order.

A. PRE-SETTLEMENT CONFERENCE LETTERS

Unless the Court orders otherwise, the following schedule applies to the exchange of pre-conference letters. Plaintiff's counsel must provide its letter to defense counsel fourteen (14) days prior to the settlement conference, with the responding letter from defense counsel due seven (7) prior to the settlement conference.

Plaintiff shall submit copies of all letters exchanged by the parties to Judge Rowland's settlement correspondence inbox six (6) days prior to the conference. The email address is Settlement_Rowland@ilnd.uscourts.gov. Parties should *not* file their letters on the court docket. If any party's letter consists of more than 10 pages

(including exhibits), the party is responsible for submitting a courtesy copy to Judge Rowland's courtroom deputy's office at least five (5) days prior to the conference.

Plaintiff's letter should contain a written itemization of damages and a settlement demand with a brief explanation of why such a settlement is appropriate. Plaintiffs are directed to include a demand that is not what they expect to win at trial, but rather a number that takes into account the risk of loss. Defendant's response should contain a written offer with a brief explanation of why such a settlement is appropriate. Defendants are expected to offer a number that does not assume that there will be no liability. *Counsel are required to provide copies of the settlement letters to their clients to read prior to the conference.*

B. PRE-CONFERENCE DISCUSSIONS BETWEEN COUNSEL

Counsel are required to have multiple discussions about settlement between the date the Court sets the settlement conference and the date of the conference. The parties should establish that each party has the necessary information to engage in meaningful settlement discussions. If not, the parties should facilitate production of that information. If unable to agree, the parties should request the assistance of the Court. It is very important that if a party is claiming an inability to pay a judgment, counsel provide verification of that fact prior to the settlement. When raised for the first time at the conference, due diligence often requires a break for document inspection. This is a waste of everyone's time, including the Court's. Sanctions may be imposed for this conduct. Parties should also discuss whether there are areas of agreement; whether there are creative solutions (e.g. licensing agreement, allowing the use of a trademark, reemployment), and whether there are outstanding lien holders, particularly a Worker's Compensation lien or a Medicare lien. Finally, the parties should make efforts to re-evaluate their positions so by the time of the conference, the parties' and the Court's time is utilized as thoughtfully and efficiently as possible. In some circumstances, after reviewing the settlement letters, the Court will set a telephonic status hearing before the conference to determine if the settlement conference will be productive.

C. ATTENDANCE OF PARTIES WITH FULL SETTLEMENT AUTHORITY REQUIRED

Unless the Court allows otherwise by written order, parties with full and complete settlement authority are required to personally attend the conference. If a party is an individual, that individual must personally attend; if a party is a corporation or governmental entity, a representative of that corporation or governmental entity (other than counsel of record) with full and complete settlement authority must personally attend. "Full and complete settlement authority" means the authority to negotiate and agree to a binding settlement agreement at any level up to the settlement proposal of the plaintiff. If a party requires approval by an insurer to settle, a representative of the insurer with full and complete settlement authority must attend. Absent a showing of unusual and extenuating circumstances, the Court will not permit a client to merely be available by telephone as an alternative to personal presence at the conference. A party that attends a settlement conference without full settlement authority may be

sanctioned. If a conference must be adjourned or continued so a party may obtain authority, that party may be sanctioned, including being required to pay the opposing party's fees incurred to reconvene. A party does not have to offer the amount the Plaintiff is demanding, but the party must be permitted to offer that amount.

D. STATEMENTS INADMISSIBLE

Any statements made by any party during the settlement conference will not be admissible at trial.

E. CONFERENCE FORMAT

Parties meet in Judge Rowland's courtroom, Room 1225, at the beginning of the conference. Judge Rowland uses a mediation format: a joint session with opening remarks by the Judge followed by private caucusing with each side. During the joint session, Judge Rowland will ask counsel whether they believe opening presentations by each side would be productive. Both sides should be prepared to make an opening presentation. However, if the parties agree that opening presentations would not be productive, the Judge will proceed with private caucusing. Judge Rowland expects both the lawyers and the party representatives to be fully prepared to participate in the discussions and to be willing to reassess their positions and to explore creative means for resolving the dispute.

F. TOPICS TO BE DISCUSSED

Parties should be prepared to discuss the following at the settlement conference:

1. What are your goals in the litigation and what problems would you like to address in the settlement conference?
2. What are the weaknesses of your case? What are the strengths of the opposing party's case?
3. What are the points of agreement and disagreement between the parties?
Factual? Legal?
4. What are the impediments to settlement?
5. What are the realistic remedies that are available through litigation?
6. Are there possibilities for a creative resolution of the dispute?
7. If the case does not settle, what are the possible legal and practical consequences for all concerned?

G. CANCELLATION OR RESCHEDULING OF THE CONFERENCE

If the parties are required to reschedule or if they have concluded that a settlement conference is not necessary, they should inform chambers as soon as possible. Counsel are cautioned that failure to attend a settlement conference without authorization may result in the imposition of monetary sanctions against them.

***Additional Note: Medicare as Secondary Payer**

Please consider whether your client has received or will be receiving conditional payments from Medicare to pay for treatment related to this case. If so, you must bring a conditional pay letter from Medicare to the settlement conference. Your client may access their payments directly by logging to his MyMedicare.gov account. As his attorney, you may request such a letter but must pre-register to do so by submitting proper proof of representation or consent to release this information. You should expect Medicare to demand at least 60% of its conditional payments to your client to resolve the case.

ENTER:

A handwritten signature in black ink, appearing to read "Mary M. Rowland". The signature is fluid and cursive, with the first name "Mary" and last name "Rowland" clearly distinguishable.

MARY M. ROWLAND
United States District Judge

Dated: 9/11/2019