



MAGISTRATE JUDGE MARY M. ROWLAND
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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.

A. INITIAL STATUS HEARING

Judge Rowland will generally hold an initial status hearing to set dates for the settlement conference and the exchange of pre-conference letters. During the status hearing, the parties will also discuss: (1) whether they have the necessary information to conduct meaningful settlement discussions; and (2) whether there are outstanding lien holders or third parties who should be invited to participate in the settlement conference. The format and procedures generally used by Judge Rowland are set forth in this Standing Order. Any party seeking a deviation from this format and these procedures should make a request at the initial status hearing. Counsel primarily responsible for representing the parties must participate in the status hearing. 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.

B. PRE-SETTLEMENT CONFERENCE LETTERS

Unless the Court allows otherwise by separate order, 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) days prior to the 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@lnd.uscourts.gov. Parties should *not* file their letters on the court docket.

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.*

C. ATTENDANCE OF PARTIES WITH FULL SETTLEMENT AUTHORITY REQUIRED

Unless the Court allows otherwise by separate order, parties with full and complete settlement authority are required to personally attend the conference. This means that 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.

D. STATEMENTS INADMISSIBLE

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

E. CONFERENCE FORMAT

Judge Rowland will generally use a mediation format: that is, 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 strengths and weaknesses of your case?
3. Do you understand the opposing side's goals and view of the case? What is wrong with their perception? What is right with their perception?
4. What are the points of agreement and disagreement between the parties? Factual? Legal?
5. What are the impediments to settlement? Financial? Emotional? Legal?
6. What remedies are available through litigation or otherwise?
7. Are there possibilities for a creative resolution of the dispute?
8. If the case does not settle, what are the possible legal and practical consequences for all concerned?
9. Are there outstanding liens? Do we need a representative of the lienholder at the settlement conference? If Medicare has paid any of the plaintiff's medical expenses, does the plaintiff have a conditional payment letter from Medicare identifying the amounts Medicare has paid for which it will seek reimbursement?

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.

ENTER:

Dated: October 14, 2015

MARY M. ROWLAND
United States Magistrate Judge