



**MAGISTRATE JUDGE SUSAN E. COX**

**219 South Dearborn Street**

**Courtroom# 1025**

**Chambers# 1068**

**Chicago, Illinois 60604**

**Phone: (312) 435-5615**

**Courtroom Deputy – Nakita Perdue**

**Room# 1024**

**(312) 435-7558**

*Proposed\_Order\_Cox@ilnd.uscourts.gov*

**STANDING ORDER ON SETTLEMENT CONFERENCES**

Judge Cox typically schedules settlement conferences *two to three months* out from the current date, so plan accordingly when seeking a settlement referral in your case. Once the Court has seen the parties to set a settlement conference date, the Court will enter a minute order outlining the settlement conference date and the appropriate dates for the settlement letters to be exchanged. Once a date for settlement conference is set, that date can only be changed by motion.

The vast majority of all civil suits settle prior to trial. Therefore, settlement preparation should be treated as seriously as trial preparation. The Court has found that the following steps are essential to a successful settlement conference.

**A. FORMAT**

**1. PRESETTLEMENT CONFERENCE DEMAND AND OFFER.** A settlement conference is more likely to be productive if, before the conference, the parties have had a written exchange of their settlement proposals. Therefore, plaintiff's counsel is to submit a written itemization of damages and settlement demand to defendant's counsel, with an explanation of why such a settlement is appropriate. A courtesy copy of this submission must be emailed to the Court's proposed order box at the same time. In response, defendant's counsel is to submit a written offer to plaintiff's counsel, with a brief explanation of why such a settlement is appropriate, and submit a copy to the Court's proposed order box at the same time. Do not file copies of these letters on the docket or in the Clerk's Office.

All parties are to consider the Paragraph B issues (set forth below) when drafting their letters, and are to be mindful that while the parties themselves are intimately familiar with their case, these settlement letters are likely the first introduction Judge Cox will have to the facts and issues

attendant to settling the case. Therefore, the parties' respective letters should inform the Court about the case background and issues accordingly. Additionally, Plaintiffs are directed to include a demand that is *not* what plaintiff expects to win at trial, but a number that takes into account the risk of loss. If a demand includes multiple components, Plaintiffs are directed to include a single lump-sum settlement demand amount, and a breakdown of any itemized amounts, including attorneys fees. Punitive damages are not appropriate to include in a settlement demand; no plaintiff is guaranteed these damages, and no defendant would agree to these amounts as part of a settlement. (A plaintiff may note they would seek punitive damages at trial, but that amount is not to be included as part of the demand during the settlement process.) Similarly, defendants are expected to offer a number that does not assume that there will be no liability. The Court views both a full-win demand and a zero offer as non-starting bargaining positions; these are not acceptable positions for a presettlement conference letter. The Court retains discretion to reject any letters that do not comply with this rule.

On occasion, this letter exchange process will lead directly to a settlement. If it does, the parties are to notify the Court as soon possible so we may attempt to schedule another case in your time slot.

**2. ATTENDANCE OF PARTIES REQUIRED. Parties with ultimate settlement authority must be personally present.** An insured party shall appear with a representative of the insurer who is authorized to negotiate, and who has *authority to settle the matter up to the limits of the opposing parties' existing settlement demand*. An uninsured corporate party shall appear by a representative authorized to negotiate, and who has *authority to settle the matter up to the amount of the opposing parties' existing settlement demand or offer*. Having a client with authority available by telephone is **not** an acceptable alternative, except under the most extenuating circumstances. The purchase of an airplane ticket is not an extenuating circumstance. Because the Court generally sets aside at least three hours for each conference, it is impossible for a party who is not present to appreciate the process and the reasons which may justify a change in one's perspective towards settlement. Sanctions will apply if this order is violated.

**3. IF A PARTY DOES NOT SPEAK ENGLISH.** If a party does not speak English, that party is responsible for an interpreter for the duration of the settlement conference. Please note: interpreter's competency will include the ability to translate word for word (real-time) during the settlement conference. Sanctions will apply if this order is violated.

**4. STATEMENTS INADMISSIBLE.** Statements made by any party in their letters and during the settlement conference are not to be used in discovery and will not be admissible at trial. Parties are encouraged to be frank and open in their discussions. The Court expects the parties to address each other with courtesy and respect.

**B. ISSUES TO BE DISCUSSED AT SETTLEMENT CONFERENCE.** Parties should preview the following issues, as appropriate, in their settlement letters and be prepared to discuss the same at the settlement conference:

1. What are your objectives in the litigation?
2. What issues (in and outside of this lawsuit) need to be resolved? What are the strengths and weaknesses of your case?

3. Do you understand the opposing side's 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?
6. What remedies are available through litigation or otherwise?
7. Are there possibilities for a creative resolution of the dispute?
8. Do you have adequate information to discuss settlement? If not, how will you obtain sufficient information to make a meaningful settlement discussion possible?
9. Are there outstanding liens? Do we need to include a representative of the lien holder?

### **C. INVOLVEMENT OF CLIENTS**

For many clients, this will be the first time they have participated in a court-supervised settlement conference. Therefore, counsel shall provide a copy of this Standing Order to the client and shall discuss the points contained herein with the client prior to the settlement conference. The Court expects both the lawyers and the party representatives to be fully prepared to participate. The Court encourages all parties to keep an open mind in order to re-assess their previous positions and to find creative means for resolving the dispute.

Entered: February 3, 2021



---

Susan E. Cox,  
United States Magistrate Judge