



**MAGISTRATE JUDGE MICHAEL F. IASPARRO**  
**327 South Church Street, Courtroom 3200**  
**Rockford, IL 61101**

### **STANDING ORDER FOR SETTLEMENT CONFERENCES**

The Court encourages the parties to fully explore settlement at the earliest reasonable opportunity in the case. Early consideration of settlement allows the parties to mitigate the substantial cost, time and distractions that are typically part of litigation. For cases that cannot be resolved through settlement, early exploration of settlement often results in focusing and streamlining 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 must follow in preparing for the settlement conference and the procedures the Court typically will employ in conducting the conference. Counsel are directed to provide a copy of this Order to their clients and discuss these procedures with them before the settlement conference.

### **INITIAL STATUS HEARING**

Judge Iasparro will generally hold a status hearing to set the date for the settlement conference and the dates for the exchange of pre-settlement conference letters. Counsel primarily responsible for representing the parties must attend the status hearing even if a date for the settlement conference has been previously arranged by counsel and the Court's operations specialist. The parties should be prepared to discuss preliminary matters for the settlement conference, including whether there is additional information that must be exchanged before a settlement conference would be beneficial, or whether the parties have engaged in previous settlement discussions. Counsel will also be expected to identify the individuals who will be present and have full settlement authority on behalf of their respective parties.

On the date and time set for the settlement conference, all parties and their lead counsel are ordered to appear at the Stanley J. Roszkowski United States Courthouse, 327 South Church Street, Courtroom 3200, Rockford, Illinois. Unless the Court terminates the conference earlier, all participants in the settlement conference should expect to work and be present at the courthouse until 5:00 p.m.

## **SETTLEMENT CONFERENCE PREPARATION**

### **1. PRE-SETTLEMENT CONFERENCE LETTERS**

The Court requires one letter from each party: a settlement position letter addressed to and exchanged with the other party and submitted to the Court. Settlement conferences are more likely to be productive if the parties have exchanged their settlement positions in writing before the conference. The letters exchanged by the parties and provided to the Court should provide Judge Iasparro with information he needs to assist the parties with exploring settlement.

Unless the Court sets a different schedule, plaintiff's counsel must deliver plaintiff's settlement letter to defendant's counsel and the Court at least fourteen (14) days before the settlement conference, and defendant's counsel must deliver defendant's settlement letter to plaintiff's counsel and the Court at least seven (7) days before the settlement conference. All settlement letters submitted to the Court should be emailed to the Court at [Settlement\\_Correspondence\\_Iasparro@ilnd.uscourts.gov](mailto:Settlement_Correspondence_Iasparro@ilnd.uscourts.gov). Courtesy copies of all settlement correspondence should also be delivered to Judge Iasparro's operations specialist in the Clerk's Office, Room 2200, within one business day. As a reminder, do not file copies of settlement correspondence in the Clerk's Office or on the CM/ECF system.

### **2. FORMAT AND LENGTH OF PRE-SETTLEMENT CONFERENCE LETTERS**

Plaintiff's letter should include at least the following information:

- a. A brief summary of the admissible evidence and legal principles supporting plaintiff's claims that plaintiff asserts will allow it to establish liability and defeat any applicable affirmative defenses.
- b. A brief explanation of why damages or other relief would appropriately be granted at trial;
- c. An itemization of the damages plaintiff believes can be proven at trial and a brief summary of the evidence and legal principles supporting those damages;
- d. A settlement proposal that includes both monetary and non-monetary relief requested; and
- e. Any additional information plaintiff believes would be helpful to the Court in assisting the parties to fully resolve the litigation.

Defendant's responsive letter should include at least the following information:

- a. Any points in plaintiff's letter with which defendant agrees;
- b. Any points in plaintiff's letter with which defendant disagrees, with references to supporting admissible evidence and legal principles;
- c. A response to plaintiff's settlement proposal and a counter-proposal; and
- d. Any additional information defendant believes would be helpful to the Court in assisting the parties to fully resolve the litigation.

Counsel must provide his/her client with the opposing party's letter before the settlement conference. The Court recognizes that the complexity of issues varies amongst cases and may affect the length of settlement letters. As a general rule, parties must limit settlement letters to no more than five (5) pages, exclusive of exhibits, unless they obtain leave of Court.

### **ATTENDANCE OF PARTIES REQUIRED**

Unless the Court allows otherwise by separate order, parties with full settlement authority are required to attend the conference in person. If a party is an individual, that individual must attend in person. 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 in person. "Full settlement authority" means the authority to negotiate and agree to a binding settlement agreement with the opposing party. If a party requires approval by an insurer to settle, then a representative of that insurer with full and complete settlement authority must attend unless the Court excuses such attendance in advance of the settlement conference.

The Court strongly believes that the personal presence of the individuals with a stake in the outcome of the settlement conference and their participation in the mediation process that occurs at the conference materially increases the chances of settlement. The Court's time is wasted and opposing parties incur unnecessary expense if a party comes to the settlement conference with less than full settlement authority. A party who comes to the settlement conference without full settlement authority may be sanctioned, to include, but not limited to, the opposing party's attorney's fees incurred in relation to the settlement conference and any need to reconvene.

### **CONFERENCE FORMAT**

The Court will generally follow a traditional mediation format, in which the Court initially meets with the parties together to discuss the objectives and process for the conference and then has private meetings with each side. Parties should not prepare formal presentations for the initial joint session. Rather, the parties or their representatives should come to the settlement conference prepared to participate in interactive discussions directly with the Court. The Court encourages all parties to be open-minded and willing to reassess their previous positions and explore creative means for resolving their dispute.

## **CONFIDENTIALITY**

The pre-settlement conference letters and the settlement conference are governed by Federal Rule of Evidence 408 and Local Rule 83.5 relating to Confidentiality of Alternative Dispute Resolution Proceedings. The Court expects the parties and counsel to address each other with courtesy and respect, but also to speak frankly and openly about their views of the case.

## **MEDICARE AS SECONDARY PAYER**

In preparation for the settlement conference, consider whether your client has received or will be receiving conditional payments from Medicare to pay for treatment related to this case. If a party has received or will be receiving conditional payments from Medicare to pay for treatment related to this case, he/she must bring a conditional payment letter from Medicare to the settlement conference. A party may access his/her payments directly by logging on to his/her MyMedicare.gov account. Counsel may request a conditional payment letter at:

<https://www.cob.cms.hhs.gov/MSPRP/assets/msprp/case/CondPymtLetter.htm> but must pre-register to do so by submitting proper proof of representation or consent to release this information. Parties should expect Medicare to demand at least 60% of its conditional payments to resolve the case.

## **TOPICS FOR THE SETTLEMENT CONFERENCE**

The parties and their counsel should consider and be prepared to discuss the following topics, among others, at the settlement conference:

- a. What are your objectives in the litigation?
- b. What are the strengths and, just as important, the weaknesses of your case?
- c. Do you understand the opposing side's view of the case? What is wrong with their perception? What is right with their perception?
- d. What are the points of agreement and disagreement between the parties? Factual? Legal?
- e. Does a settlement require the participation or input of a third party not a party to the case?
- f. Are there impediments to a settlement that are not discussed in the parties' settlement letters?
- g. If the party hoping to prevail at trial does prevail, what remedy (*i.e.*, damages, injunctive relief, statutory award or penalty, attorneys' fees, interest) does the law allow?
- h. Are there possibilities for non-traditional resolution of the dispute, tailored to the specific circumstances of the case or relationship between the parties?

- i. Have you considered how to deal with any outstanding liens?

### **SETTLEMENT TERM SHEET**

If a settlement is reached, the Court will require the parties to complete a settlement term sheet unless the parties provide their own. The parties should review the term sheet (available here: [Settlement Term Sheet](#)) prior to the settlement conference so that they are familiar with the most common issues raised in finalizing a settlement.

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