



MAGISTRATE JUDGE MICHAEL T. MASON
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STANDING ORDER FOR SETTLEMENT CONFERENCE

The Court believes that the parties should fully consider settlement at the earliest reasonable opportunity in the case. Even if the case cannot be resolved through settlement, early consideration of settlement often can result in focusing and streamlining the issues to be litigated - which can save the parties considerable time and money.

Consideration of settlement is a serious matter; therefore, a settlement conference requires serious and thorough preparation. This Order sets out the procedures that the Court requires the parties to follow in preparing for the settlement conference. Counsel must provide a copy of this Order to their clients, and discuss these procedures with them prior to the settlement conference.

SETTLEMENT CONFERENCE PREPARATION

1. PRE-SETTLEMENT CONFERENCE DEMAND AND OFFER. Settlement conferences are more likely to be productive if, before the conference, the parties have had a written exchange of their settlement positions. Accordingly, at least forty-five (45) calendar days prior to the date of the settlement conference, plaintiff's counsel shall serve on defense counsel a letter that sets forth at least the following information: (a) a brief summary of the evidence and legal principles that plaintiff asserts will allow it to establish liability; (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; and (d) a settlement demand. At least thirty (30) calendar days before the settlement conference, defendant's counsel shall serve on plaintiff's counsel a letter that sets forth at least the following information: (a) any points in plaintiff's letter with which the defendant *agrees*; (b) any points in plaintiff's letter with which defendant *disagrees*; and (c) a settlement offer. **UNLESS OTHERWISE ORDERED, EACH OF THESE LETTERS IS LIMITED TO FIVE PAGES, 12-POINT FONT, INCLUDING EXHIBITS.**

Plaintiff's counsel shall deliver copies of the letters to Chambers (Room 2270) by no later than twenty-one (21) calendar days before the conference. **DO NOT ELECTRONICALLY FILE OR MANUALLY FILE COPIES OF THESE LETTERS IN THE CLERK'S OFFICE.** The foregoing schedule is designed to ensure that the Court and the parties have enough time to prepare for the conference, and must be followed unless the Court establishes a different schedule.

2. ATTENDANCE OF PARTIES WITH FULL SETTLEMENT AUTHORITY REQUIRED. Unless the Court allows otherwise by separate order, *parties with full settlement authority are required to attend the conference in person.* 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 settlement authority must personally attend; and if a party requires approval by an insurer to settle, then a representative of the insurer with full settlement authority must attend. Full settlement authority means authority to make a final and binding settlement and authority to make the decision to the last offer or demand. It does not require that any party make any particular offer or demand, but it does require that the person who is personally present be fully authorized to make the decision to the last offer or demand without having to get additional authorization from any person not present at the conference. A party who comes to a settlement conference without authority to settle to the full amount of the last offer or demand may be subject to sanctions if the Court determines that the limit of the party's authority reflects bad faith. If a conference must be adjourned so that a party may obtain additional authority, that party may be subject to sanctions, including, but not limited to, the opposing party's attorney's fees incurred by the need to reconvene.

3. ATTENDANCE BY PHONE NOT PERMITTED. The Court strongly believes that the physical presence of the parties, and their direct participation in the discussions and "give and take" that occur, will materially increase the chances of settlement. Thus, absent a showing of unusual and extenuating circumstances, the Court will not permit a client or an insurance adjuster merely to be available by telephone. In the event that extenuating circumstances arise, counsel shall contact opposing counsel and the Court's chambers immediately so that appropriate arrangements can be made. The purchase of an airplane ticket does not amount to an extenuating circumstance.

4. CONFERENCE FORMAT. The Court generally will follow a mediation format: that is, each side will make an opening presentation to the other side, which will be followed by joint discussion with the Court and private meetings by the Court with each side. The Court expects both the lawyers and the party representatives to be fully prepared to participate in the discussions. 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 generally sets aside two to three hours for each settlement conference. Notwithstanding this two to three hour allotment, the parties and their attorneys are expected to be present until the completion of the conference. Absent extraordinary circumstances, the Court will not permit a party or attorney to leave a conference early due to travel plans. If at

any time the Court determines that the parties are not negotiating in good faith, and thereby wasting the Court's time, the conference will be terminated.

5. CONFIDENTIALITY. The written demands and offers required by this Order and the settlement conference are governed by Local Rule 83.5 relating to Confidentiality of Alternative Dispute Resolution Proceedings. 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, but at the same time strongly encourages the parties to speak frankly and openly about their views of the case.

ANY PARTY WHO WISHES TO VARY ANY OF THE PROCEDURES SET FORTH IN THIS STANDING ORDER SHOULD MAKE AN APPROPRIATE REQUEST TO THE COURT PRIOR TO THE EXCHANGE OF SETTLEMENT LETTERS DESCRIBED ABOVE.

ENTER:

A handwritten signature in black ink, appearing to read "Michael T. Mason", written over a horizontal line.

MICHAEL T. MASON

United States Magistrate Judge

Revised: November 2, 2012