MAGISTRATE JUDGE DANIEL P. McLAUGHLIN
219 South Dearborn Street
Courtroom 1350
Chambers 1356
Chicago, Illinois 60604
312/435-7580

STANDING ORDER FOR SETTLEMENT CONFERENCES

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

This Order sets out the procedures parties are to follow in preparing for a settlement conference with Judge McLaughlin, and the procedures the Court typically will employ in conducting the conference. Failure to comply with the procedures set forth in this Order may result in the unilateral cancellation of the settlement conference by the Court.

1. Before the Settlement Conference—Initial Status Hearing and Exchange of Settlement Statements

The Court will hold a status hearing to set dates for the exchange of pre-conference settlement statements and for the settlement conference. Counsel primarily responsible for representing the parties must participate in this status hearing. Counsel should come prepared to discuss the availability of both attorneys and decisionmakers who will participate in the settlement conference, consistent with the requirements of this order.

Particularly if the case is in the early stages of discovery, the parties should consider whether they have the necessary information to engage in meaningful settlement discussions and, if not, raise the issue during the status hearing.

If a party is claiming an inability to pay a judgment, counsel should also raise this issue at the status hearing and should expect to provide verification of that fact prior to the settlement conference.

Consistent with the schedule that is set, plaintiff's counsel must submit a settlement statement to defendant's counsel, describing the nature of the action, the theory of liability, itemization of damages, and plaintiff's demand, including an explanation for it. Plaintiffs are expected to submit a demand that is **not** what they expect to win at trial, but rather a number that takes into account the risk of loss and cost savings from settling before dispositive motions are filed and/or trial.

Defendant's counsel must thereafter submit a settlement statement to plaintiff's counsel, describing the theory of defense and defendant's offer, including an explanation for it. Defendants are expected to offer a number that does **not** assume that there will be no liability.

Parties should address in their settlement statements whether there are any areas of agreement; whether there are any creative solutions (e.g., licensing agreement, allowing the use of a trademark, re-employment); whether there are any outstanding lien holders, particularly a Worker's Compensation lien or a Medicare lien; and, any and all non-monetary material terms that the parties seek (e.g., confidentiality, tax treatment of settlement proceeds).

The parties' statements should also detail their previous and ongoing efforts to settle the case. Settlement statements should be no more than **10 pages** each.

The Court does not accept courtesy copies. On the same day the parties provide their settlement statements to opposing counsel, the parties are required to submit their statements to the Court by e-mail. All settlement statements should be sent to the Court *via* the following email address:

Settlement_Correspondence_McLaughlin@ilnd.uscourts.gov.

Exhibits to settlement statements should be attached to the email sent to the Court, or counsel may utilize an electronic file sharing service if necessary.

The parties' settlement statements are not to be filed on ECF, will not be made part of the Court's record, and will not be admissible as evidence.

The parties should invest sufficient time and effort when preparing their settlement statements because the Court finds that thoughtful and detailed statements are critical to having productive settlement discussions. Parties are forewarned that failure to account for the risks and costs associated with proceeding with litigation in their settlement statements may result in the Court unilaterally canceling the settlement conference as a waste of the parties' time and money, as well as Court resources.

In some circumstances, after reviewing the parties' settlement statements, the Court will set an off-the-record telephone conference before the settlement conference to determine if it will be productive. The Court may also separately contact counsel for one or both parties, but will let the other party or parties know if/when this happens.

All counsel are required to provide the full set of the settlement statements to their clients to read prior to the conference. On occasion, this exchange process itself will lead to a settlement. The fact that a settlement conference has been scheduled does not mean that the parties should stop engaging in settlement discussions among themselves. The Court finds that too often the parties put settlement talks on hold until the settlement conference with the Magistrate Judge. Indeed, the parties should have multiple discussions about settlement between the date the Court sets the settlement conference and the actual date of the conference.

2. Persons Required to Attend the Settlement Conference

Individuals with full and complete settlement authority on behalf of the parties are ordered to personally participate in the entire settlement conference. An insured party shall participate with a representative of the insurer who is authorized to negotiate and who has authority to settle the case. If a party is an individual, that individual must personally participate. If a party is an uninsured corporation or governmental entity, a representative of that corporation or governmental entity (other than counsel of record) with authorization to negotiate and authority to settle the case must personally participate.

Having a client or representative with authority reachable by telephone during the settlement conference is not an acceptable alternative, except

under the most unusual and extenuating circumstances (and must be approved by the Court ahead of time in those cases). Because the Court generally sets aside a half day for each conference, it is impossible for a party who is not present to appreciate the process and the reasons that may justify a change in one's perspective towards or position on settlement. Failure to comply with this provision without good cause will result in an order requiring the party in violation to reimburse the opposing party's attorney fees and costs related to preparing for and appearing at the settlement conference.

3. Conference Format

In an effort to make the process as efficient and productive as possible, the Court will discuss with the parties in advance their preference for conference format, whether it be by video conferencing or in person. Regardless of the chosen format, individuals participating in the conference are expected to be ready to begin at the scheduled time. For video conferences, this means that all participants will need to log in early and ensure that they do not have technical issues that preclude them from participating.

The Court generally will follow a traditional mediation format, in which the Court initially meets with the participants together and then has private meetings with each side. The Court does not want the parties to prepare formal presentations about their case. Rather, the parties or their representatives should come to the settlement conference prepared to participate in interactive discussions. The Court encourages all participants to be willing to reassess their previous positions and explore creative means for resolving the dispute. Statements made during the settlement conference are not to be used in discovery and will not be admissible at trial.

4. Prepare for Success

If the parties are successful in reaching an agreement, they will be required to detail the material terms of the settlement at the conclusion of the conference, so that the material terms are binding on the parties. Defendants that generally prefer a certain format of settlement agreement are encouraged to prepare it ahead of time and provide it to opposing counsel in advance of the settlement conference or, if that is not practicable, bring the draft agreement with them to the conference in the hope that it can be completed if the parties are successful in reaching a settlement.

5. Prohibition on Recordings and Photographs

The parties are reminded that all communications with the Court on settlement, including the settlement conferences, *ex parte* calls, and hearings, whether by video, phone, or in person, cannot be photographed, recorded, or rebroadcasted. Any violation of these prohibitions may result in the imposition of sanctions.

6. Involvement of Clients

For many clients, this will be the first time they have participated in a court-supervised settlement conference. Therefore, counsel is required to provide a copy of this Standing Order to the client and to discuss it with the client prior to the settlement conference. Additionally, counsel is required to provide copies of both parties' settlement statements to their respective clients prior to the settlement conference, and to do so far enough in advance that their clients have a meaningful opportunity to review the materials. The Court expects the lawyers and the parties to be fully prepared to participate. The Court encourages all participants to keep an open mind in order to re-assess their previous positions and to find creative means for resolving the dispute.

7. Cancellation or Rescheduling of the Conference

If the parties must reschedule, or if they conclude that a settlement conference is not necessary at this time, they should inform chambers as soon as possible by emailing:

Chambers_McLaughlin@ilnd.uscourts.gov.

Counsel and parties are cautioned that failure to attend a scheduled

settlement conference without advance notice to the Court may result in the imposition of sanctions.

SO ORDERED.

Daniel P. McLaughlin
United States Magistrate Judge

Dated: October 2, 2024