



MAGISTRATE JUDGE DANIEL G. MARTIN
219 South Dearborn Street
Chicago, IL 60604

Courtroom 1350
Chambers 1356
Court Web Site: <http://www.ilnd.uscourts.gov>

Telephone: (312) 435-5354
Fax: (312) 554-8071

Courtroom Deputy - Lynette Santiago
Lynette_Santiago@ilnd.uscourts.gov
Room 1358 - (312) 435-5833

STANDING ORDER FOR SETTLEMENT CONFERENCE

The Court believes the parties should fully explore and consider settlement at the earliest opportunity. Early consideration of settlement can prevent unnecessary litigation. This allows the parties to avoid the substantial cost, expenditure of time, and stress that are typically a part of the litigation process. Early consideration of settlement can allow the parties to better understand the factual and legal nature of their dispute and streamline the issues to be resolved.

A settlement conference is **not** a discovery tool. The Court requires that both sides approach settlement with a willingness to pursue negotiations in absolute good faith.

Consideration of settlement is a serious matter that requires thorough preparation prior to the settlement conference. Set forth below are the procedures the Court will require the parties to follow and the procedures the Court typically will employ in conducting the conference.

A. FORMAT

1. PRESETTLEMENT CONFERENCE EXCHANGE OF DEMAND AND OFFER.

A settlement conference is likely to be productive only if, before the conference, the parties exchange written settlement proposals. Accordingly, at least fourteen (14) calendar days prior to the date of the settlement conference, plaintiff's counsel shall submit to defense counsel a letter that sets forth at least the following information: (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) a precise 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 precise and specific settlement demand inclusive of all attorney's fees, costs, and damages.** No later than seven (7) calendar days prior to the settlement conference date, defendant's counsel shall submit a responding letter to plaintiff's counsel 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, with references to supporting evidence and legal principles, and **(c) a precise and specific settlement offer.** The Court expects that each of these letters typically should be five pages or fewer.

Both letters also should summarize briefly the following matters:

- a. The status of any pending motions, including whether any such motions are fully briefed and any existing briefing schedules;
- b. A description of the discovery that has been completed or that is outstanding, including the number of depositions that have been taken or are contemplated by each party, a description of any discovery that is outstanding, and a summary of any future discovery that is contemplated; and
- c. Any existing discovery cut-off, pre-trial order, pre-trial conference or trial dates.

Each party is required to email a copy of its settlement letter to Judge Martin's settlement conference inbox on the same day that it is provided to opposing counsel. The email address is Settlement_Correspondence_Martin@ilnd.uscourts.gov. Do not file copies of these letters on the court docket.

2. ATTENDANCE OF PARTIES REQUIRED. Parties with full and complete settlement authority are required to personally attend the conference. An insured party shall appear by 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.* Because the Court generally sets aside a substantial block of time 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.

If the person attending the settlement conference does not have authority to agree to a settlement without making a telephone call, then the person on the other end of that telephone call should attend the settlement conference. Although it is probable and even likely the case will settle for less than the settlement demand, the foregoing requirement is intended to avoid a situation in which a party or its representative comes to the settlement conference with authority that is less than what could be reasonably within the realm of possibility for the case. *If a party requires approval by an insurer to settle, then a representative of the insurer with full settlement authority must attend in person.*

*The purchase of an airplane ticket is not an extenuating circumstance.

3. SANCTIONS. A party who comes to a settlement conference without full settlement authority as described in this Order may be sanctioned. If a conference must be adjourned or continued so that a party may obtain additional authority up to the plaintiff's demand, that party may be sanctioned, including, but not limited to, being required to pay the opposing party's attorney's fees incurred by the need to reconvene.

4. MEDIATION FORMAT. The Court will generally use a mediation format: that is, a joint session with opening presentations by the Court and each side followed by private caucusing by the Court with each side. 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 reassess their previous positions and to discover creative means for resolving the dispute.

5. STATEMENTS INADMISSIBLE. The Court expects the parties to address each other with courtesy and respect. Parties are encouraged to be frank and open in their discussions. As a result, statements made by any party during the settlement conference are not to be used in discovery and will not be admissible at trial.

B. ISSUES 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? What do you understand are the opposing side's goals?
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? Financial? Emotional? Legal?
6. Does settlement or further litigation better enable you to accomplish your goals?
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 lien holders or third parties who should be invited to participate in the settlement conference?

C. INVOLVEMENT OF CLIENTS

Parties and their lead counsel are ORDERED TO APPEAR in Judge Martin's courtroom on the date and time set for the settlement conference. For many clients, this will be the first time they will participate in a court-supervised settlement conference. Therefore, prior to the settlement conference, counsel shall provide a copy of this Standing Order to the client and shall discuss the points contained herein with the client.

D. PREPARE FOR SUCCESS

In anticipation of a settlement, the parties should review and be prepared to complete Judge Martin's Settlement Checklist/Term Sheet at the conclusion of the settlement conference. *See* Judge Martin's homepage on the court's website.

E. VISIT THE COURT'S WEBSITE

For additional information concerning Judge Martin's practices and procedures, visit the Court's homepage on the internet at: <http://www.ilnd.uscourts.gov>.

ENTER:

A handwritten signature in black ink that reads "Daniel G. Martin". The signature is written in a cursive style and is positioned above a horizontal line.

DANIEL G. MARTIN
United States Magistrate Judge

Dated: May 22, 2014