

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

[PLAINTIFF],) CASE NO. CV (SSx)
)
Plaintiff,) Referred for settlement proceedings to
) Magistrate Judge Suzanne H. Segal
v.)
) ORDER RE SETTLEMENT CONFERENCE
[DEFENDANT],)
) DATE:
Defendants.) TIME:
_____) PLACE: COURTROOM 23

PLEASE READ THIS ORDER CAREFULLY!

This case has been referred to Magistrate Judge Suzanne H. Segal for settlement proceedings.

The Settlement Conference is placed on calendar for [CONF. DATE] at _____, Courtroom 23, Third Floor, 312 N. Spring Street, Los Angeles, California 90012.

1 The Magistrate Judge will not be involved in the actual trial of
2 the case and will assist the parties in an objective appraisal and
3 evaluation of the case. The following are guidelines for the parties in
4 preparing for the Settlement Conference.

5
6 1. The purpose of the Settlement Conference is to permit an
7 informal discussion between the attorneys, parties, non-party
8 indemnitors or insurers, and the settlement judge, of every aspect of
9 the case bearing on its settlement value.

10
11 2. Pursuant to Local Rule 16-14.8, all settlement proceedings
12 shall be confidential and no statement made therein shall be admissible
13 in any proceeding in the case, unless the parties otherwise agree. No
14 part of a settlement proceeding shall be reported or otherwise recorded,
15 without the consent of the parties, except for any memorialization of a
16 settlement.

17
18 3. Counsel who will try the case must be present. In addition,
19 a person with full settlement authority should likewise be present for
20 the conference. This requirement contemplates the physical presence of
21 your client or, if a corporate or governmental entity, of an authorized
22 and knowledgeable representative of your client. The plaintiff's
23 representative must have full and final authority, in the
24 representative's discretion, to authorize dismissal of the case with
25 prejudice, or to accept a settlement amount recommended by the
26 settlement judge down to the defendant's last offer made prior to the
27 settlement conference. The defendant's representative must have final
28 settlement authority to commit the defendant to pay, in the

1 representative's discretion, a settlement amount recommended by the
2 settlement judge up to the plaintiff's prayer (excluding punitive damage
3 prayers), or up to the plaintiff's last demand made prior to the
4 settlement conference, whichever is lower.

5
6 The purpose of this requirement is to have representatives present
7 who can settle the case during the course of the conference without
8 consulting a superior. ANY VIOLATION OF THIS REQUIREMENT WILL CAUSE THE
9 COURT TO CANCEL THE SETTLEMENT CONFERENCE. IN ADDITION, COUNSEL AND/OR
10 THE PARTY WHO VIOLATE THIS ORDER MAY BE SUBJECT TO SANCTIONS.

11
12 Either at a telephonic conference prior to the date of the
13 settlement conference (which will only take place if the Court requests
14 such a telephonic conference) or at the beginning of the settlement
15 conference, the Court will ask each counsel to identify who will appear
16 on behalf of the party. Even if your client is located outside the
17 Central District of California, the client will be expected to appear in
18 person.

19
20 Any relief from this requirement may only be granted by the Court,
21 following a motion or ex parte application from the party seeking
22 relief. Relief from this requirement will rarely, if ever, be granted
23 and only upon a showing of exceptional good cause.¹

24
25
26
27 ¹ The provisions of Local Rule 16-14.5(b) are inapplicable to
28 this Order. Only the United States, its agencies or employees are
entitled to rely upon Local Rule 16-14.5(b).

1 4. If Board approval is required to authorize settlement, the
2 attendance of at least one sitting and knowledgeable member of the Board
3 (preferably the Chairman) is absolutely required.

4
5 5. Counsel appearing without their clients (whether or not
6 counsel purportedly have been given settlement authority) will cause the
7 settlement conference to be canceled and rescheduled. The noncomplying
8 party, attorney, or both, may be assessed the costs and expenses
9 incurred by other parties as a result of such cancellation and
10 rescheduling.

11
12 6. Any insurance company that is contractually required to defend
13 or to pay damages assessed within policy limits also should have a
14 settlement representative present at the conference. Such
15 representative must have final settlement authority to commit the
16 company to pay, in the representative's discretion, an amount
17 recommended by the settlement judge within the policy limits. The
18 purpose of this requirement is to have an insurance representative
19 present who can settle the outstanding claim or claims during the course
20 of the conference without consulting a superior. An insurance
21 representative authorized to pay, in his or her discretion, up to the
22 plaintiff's last demand made prior to the settlement conference will
23 also satisfy this requirement. Counsel of record will be responsible
24 for timely advising any involved non-party insurance company of the
25 requirements of this Order.

26
27 7. When a party or a representative from an insurance company
28 resides outside the District, the Court will consider excusing the

1 personal attendance of such person, so long as such person can and will
2 be available by telephone during the entire settlement conference. If
3 a party intends to avail itself of this excuse from personal attendance,
4 the party should so request in its Settlement Conference Statement (and
5 specify where such person will be located during the settlement
6 conference). After the party's Settlement Conference Statement is
7 submitted, counsel should contact Magistrate Judge Segal's courtroom
8 deputy clerk to ascertain whether the request has been granted.

9
10 8. The settlement judge may, in his discretion, converse with the
11 lawyers, the parties, the insurance representatives, or any one of them
12 outside of the hearing of the others. The comments of the judge during
13 such separate sessions are not to be used by counsel in settlement
14 negotiations with opposing counsel. This is a necessary requirement in
15 order to avoid intentional or unintentional misquotation of the judge's
16 comments. Violation of this policy may be misleading and therefore a
17 hindrance to settlement.

18
19 9. Prior to the Settlement Conference, the attorneys are directed
20 to discuss settlement with their respective clients and insurance
21 representatives, so that the parameters of possible settlement will have
22 been explored well in advance of the Settlement Conference. At the
23 Settlement Conference, each party shall be fully prepared to discuss all
24 economic and non-economic factors relevant to a full and final
25 settlement of the case. **In addition, the Court strongly encourages the**
26 **exchange of written demands and counter-offers prior to the settlement**
27 **conference.**

1 10. No later than five (5) court days prior to the conference,
2 each party shall submit a Settlement Conference Statement directly to
3 the chambers of Magistrate Judge Segal (312 N. Spring St., Room 324) or
4 fax to (213) 894-4368. The parties shall serve the Statements on all
5 relevant parties in the action on the same date. The Statements should
6 not be filed with the Clerk of the Court and they will not be made part
7 of the case file. The Statements shall be double-spaced and shall not
8 exceed ten (10) pages in length.

9
10 The parties respective Settlement Conference Statements shall
11 include the following:

12
13 A. A brief statement of the facts of the case, including the
14 party's claims and defenses. The statement should include citations to
15 the applicable statutory or other grounds upon which claims or defenses
16 are based. This statement should identify the major factual and legal
17 issues in dispute, and cite any controlling authorities.

18
19 B. An itemized statement of the damages claimed, and of any
20 other relief sought. This is one of the most critical aspects of the
21 party's statement. Any statement which omits an itemized statement of
22 damages will be considered a violation of this Order and may subject the
23 party to sanctions.

24
25 C. A summary of the proceedings to date, including any case
26 management dates/deadlines already set by the District Judge.

1 D. A history of past settlement discussions, offers and
2 demands.

3
4 11. Each party shall also prepare a Confidential Addendum to
5 Settlement Conference Statement, which shall be delivered directly to
6 Magistrate Judge Segal only, along with the Settlement Conference
7 Statement. The Confidential Addendum shall not be filed with the Court
8 or served upon the other parties. The Confidential Addendum shall
9 contain:

10
11 A. A forthright evaluation of the party's likelihood of
12 prevailing on each of its claims and/or defenses.

13
14 B. The approximate amount of attorney's fees, time and costs
15 expended to date, and an estimate of the fees, time and costs to be
16 expended for (i) further discovery, (ii) pretrial and (iii) trial.

17
18 C. The party's evaluation of the terms on which the case
19 could be settled fairly, taking into account the litigation position and
20 settlement position of the other side.

21
22 12. In the event both parties agree that a settlement conference
23 at this point in the litigation would not be meaningful, after the above
24 described steps are completed, the parties are instructed to telephone
25 Judge Segal's courtroom deputy clerk at (213) 894-0958 and inform her of
26 this information. The Court will then hold the settlement conference
27 telephonically on the date and time previously scheduled for the
28 Settlement Conference.

1 13. Any failure of the trial attorneys, parties or persons with
2 authority to attend the conference will result in sanctions to include
3 the fees and costs expended by the other parties in preparing for and
4 attending the conference. Failure to timely deliver a Settlement
5 Conference Statement and Confidential Addendum, or otherwise comply with
6 this Order, will also result in sanctions being imposed.

7
8 14. At the commencement of the conference, each party through
9 counsel may be required to make an oral presentation (not to exceed 10
10 minutes) of the relevant facts and law, in the presence of all parties
11 and counsel. Counsel should have available for the Court's review
12 copies of all key documents in the case, as well as copies of all
13 important witnesses' deposition transcripts. If a party's settlement
14 position is predicated on the recoupment or recovery of attorney's fees
15 and/or costs, then its counsel should have available for the Court's
16 review copies of billing records substantiating both the time expended
17 and the expenses incurred.

18
19 15. If settlement between any or all parties is reached as a
20 result of the Settlement Conference, it is the responsibility of all
21 counsel to immediately report the settlement to the District Judge's
22 courtroom deputy clerk, as well as to timely memorialize the settlement.
23 See Local Rule 16-14.7.

24 \\

25 \\

26 \\

27 \\

28

