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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

Case No. CV -GAF

**ORDER REGARDING
SETTLEMENT CONFERENCE
BEFORE THIS COURT**

Plaintiff(s),
v.
Defendant(s).

PLEASE READ THIS ORDER CAREFULLY

The Court has agreed to conduct the settlement conference in this matter. To facilitate the settlement conference, the Court hereby orders as follows:

1. Settlement Conference Date. [The parties should contact the Clerk of the Court to arrange a mutually agreeable date for the settlement conference to take place.] OR

[The Court hereby schedules this case for a Scheduling Conference at _____.]

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

1 parties.

2 **3. Consultation with Clients Before Settlement Conference.** In order to
3 provide the parties with a starting point for their settlement discussions with the
4 Court, plaintiff(s) shall advise defendant(s) of the terms upon which plaintiff(s)
5 then is prepared to settle the case, in a letter delivered or faxed no later than seven
6 (7) court days prior to the settlement conference. Within forty-eight (48) hours of
7 receipt of plaintiff(s)'s settlement offer, defendant(s) shall respond to the same by
8 letter delivered or faxed advising plaintiff(s) of the terms upon which they are
9 prepared to settle the case.

10 **5. Settlement Conference Statements.**

11 (A) Statements That Are Exchanged.

12 No later than three (3) court days prior to the settlement conference,
13 the parties shall deliver settlement conference statements in compliance with
14 Local Rule 16-14.8 directly to the Court's chambers and shall fax or
15 personally deliver the statement to opposing counsel. The statement shall
16 include (1) a brief statement of the facts of the case, including claims and
17 defenses remaining to be tried and the party's position on each issue; (2) an
18 itemized statement of the damages claimed in non-conclusionary form; and
19 (3) a summary of the history of past settlement discussions and offers and
20 demands, including the most recent settlement offers exchanged pursuant to
21 this Order. The statements shall also disclose the parties' positions about
22 non-monetary terms that they may seek (or oppose), including (but not
23 necessarily limited to): the form and scope of releases --e.g., general and/or
24 specific; waiver of California Civil Code § 1542; releases of and/or
25 covenants not to sue third parties who either are not participants in the
26 settlement conference or may not even be parties in the lawsuit, but whose
27 interests could affect the negotiating parties' ability to settle;
28 indemnifications against claims of other parties; whether there should be a

1 confidentiality provision (strongly disfavored by the Court); whether there
2 should be recitals of non-admission of fault or liability; whether each
3 settling party is to pay his, her of its own costs and attorneys' fees; and any
4 other provision which is likely to be the subject of negotiation. The
5 statement shall be brief and to the point and shall not exceed 10 pages,
6 double-spaced. Unless absolutely essential to inform the Court of key
7 considerations, please do not attach exhibits or transcript excerpts; the
8 purpose of the statement is to enable the Court to become familiar with the
9 issues, not to try the case.

10 (B) Confidential Statement

11 Each party shall also prepare a Confidential Addendum to the
12 Settlement Conference Statement, which shall also be delivered to chambers
13 but *shall not be served upon the other parties*. The Confidential Addendum
14 shall contain a forthright evaluation of the party's likelihood of prevailing
15 on its claims and/or defenses; the party's evaluation of the terms on which
16 the case could *fairly* be settled; the approximate amount of fees and costs
17 expended to date; an estimate of the fees and costs to be expended for future
18 discovery, pretrial and trial; and any additional information the party wishes
19 to impart to the judge confidentially.

20 (C) Exceptions

21 Sometimes the foregoing requirements maybe unnecessary --*e.g.*, if
22 there is only one relatively narrow or discrete issue that divides the parties,
23 after they have reached agreement on all, or virtually all, other material
24 terms. In such case, the parties' settlement conference statements and
25 addenda should focus on the "sticking point" issue and provide the Court the
26 background or context necessary to help break the impasse.

27 Failure to timely deliver a Settlement Conference Statement and
28 Confidential Addendum will likely result in sanctions being imposed.

1 **6. Persons to be Present at Settlement Conference.** All persons whose
2 consent is necessary to conclude settlement shall be present personally. This
3 means the individual with the authority to say “yes,” not just “no.” As an
4 exception, out-of-district parties, or agents empowered to settle may be available
5 by telephone, provided they are absolutely committed to remaining available at the
6 telephone (regardless of the hour) until released by the Court and further provided
7 that a written request for their participation by telephone is submitted to and
8 approved by the Court in advance of the conference.

9 Counsel appearing without their clients and/or the person or persons whose
10 presence is required to achieve settlement (such as insurance representatives) will
11 cause the settlement conference to be canceled and rescheduled, *regardless of*
12 *whether counsel purportedly has been given settlement authority.* (This will not
13 result if the Court granted prior authorization for the client to participate
14 telephonically.) The noncomplying party, attorney, or both, may be assessed the
15 costs and expenses incurred by other parties as a result of such cancellation and
16 rescheduling.

17 If a settlement proposal must be presented to a board or committee, the
18 attendance of at least one sitting and knowledgeable member of the Board
19 (preferably the Chairperson) is *absolutely required*, unless the entity commits
20 absolutely to the discretionary authority of another representative.

21 In lawsuits involving the United States or any of its agencies, the Assistant
22 United States Attorney in charge of the case must appear with the full measure of
23 settlement authority provided by his or her superiors within the United States
24 Attorney’s Office.

25 In cases involving insurance, a representative with *unrestricted* settlement
26 authority must appear on behalf of the insurance company or, if out of the district,
27 must be available by telephone.

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1 **7. Conduct of Settlement Conference.** The Court may, in its discretion,
2 converse with the lawyers, the parties, the insurance representatives, or any one of
3 them outside of the hearing of the others. The comments of the Court during such
4 separate sessions are not to be used by counsel in settlement negotiations with
5 opposing counsel. This is a necessary requirement in order to avoid intentional or
6 unintentional misquotation of the Court's comments. Violation of this policy may
7 mislead the adverse party and therefore hinder settlement.

8 At the commencement of the settlement conference, each party through
9 counsel may be required to make an oral presentation (not to exceed 10 minutes)
10 of the relevant facts *and* law, in the presence of all parties and counsel.

11 If settlement between any or all parties is reached as a result of the
12 Settlement Conference, the Court will enter the settlement terms on the record at
13 the end of the conference and the parties will be expected to assent to those terms,
14 at which point the settlement will be final and binding.

15 All papers submitted for the Settlement Conference will either be returned
16 to the parties or destroyed by the Court after the settlement proceedings are
17 concluded, unless the parties otherwise agree.

18 The Court thanks the parties and their counsel for their anticipated
19 cooperation in carrying out these requirements.

20 IT IS SO ORDERED.

21
22 DATED:

23 _____
24 **GARY ALLEN FEESS**
25 **United States District Court Judge**
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