

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

4 2. Pursuant to Local Rule 16-14.8, all settlement proceedings shall be
5 confidential and no statement made during these proceedings shall be admissible in any
6 proceeding in the case, unless the parties otherwise agree. No part of a settlement
7 proceeding shall be reported or otherwise recorded, without the consent of the parties,
8 except for any memorialization of a settlement.

9 3. In addition to counsel who will try the case being present, a person with
10 full settlement authority should also be present for the conference. This requirement
11 means the physical presence of your client or, if a corporate or governmental entity,
12 of an authorized and knowledgeable representative of your client.¹ The plaintiff's
13 representative must have full and final authority, **in the representative's sole**
14 **discretion**, to authorize dismissal of the case with prejudice, or to accept a settlement
15 amount recommended by the settlement judge. The defendant's representative must
16 have final settlement authority to commit the defendant to pay, **in the**
17 **representative's sole discretion**, a settlement amount recommended by the
18 settlement judge.

19 The purpose of this requirement is to have representatives present who can
20 settle the case during the course of the conference without consulting a superior.

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25 ¹ Unless otherwise ordered by the Court, however, if this matter is a lawsuit in
26 which the United States or any of its agencies is a party, the Assistant United States
27 Attorney who will try the case may appear without a representative, provided that
28 he or she comes armed with the full measure of authority conveyed by his or her
superiors within the United States Attorney's Office after appropriate consultation.

1 4. Subject to paragraph 7 below, if Board approval is required to authorize
2 settlement, the attendance of at least one sitting and knowledgeable member of the
3 Board (preferably the Chairman) is **absolutely required**.

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

9 6. Any insurance company that is a party to the case or is contractually
10 required to defend or to pay damages assessed within policy limits, should have a
11 settlement representative present at the conference. Such representative must have
12 final settlement authority to commit the company to pay, **in the representative's sole**
13 **discretion**, an amount recommended by the settlement judge within the policy limits.
14 The purpose of this requirement is to have an insurance representative present who
15 can settle the outstanding claim or claims during the course of the conference without
16 consulting a superior. Counsel of record will be responsible for timely advising any
17 involved non-party insurance company of the requirements of this Order.

18 7. When a person whose personal attendance would otherwise be required
19 pursuant to the foregoing paragraphs resides outside the District, the Court will
20 consider excusing the personal attendance of such person, so long as such person can
21 and will be available by telephone during the entire settlement conference. **If a party**
22 **desires to avail itself of this excuse from personal attendance, counsel should so**
23 **request in such party's Settlement Conference Statement** (and specify where such
24 person will be located during the settlement conference). After the party's Settlement
25 Conference Statement is submitted, counsel should contact Magistrate Judge
26 Kewalramani's courtroom deputy clerk to ascertain whether the request has been
27 granted. **Such requests are not automatically granted**.

28 8. The Magistrate Judge may, in his discretion, converse with the lawyers,

1 the parties, the insurance representatives, or any one of them outside of the hearing
2 of the others. The comments of the judge during such separate sessions are not to be
3 used by counsel in settlement negotiations with opposing counsel. This is a necessary
4 requirement in order to avoid intentional or unintentional misquotation of the judge's
5 comments. If all counsel and parties are not present to hear the Court's opinions, it
6 is all too easy for counsel to misrepresent the Court's comments in an effort to obtain
7 a tactical advantage with opposing counsel. Violation of this policy may be misleading
8 and therefore a hindrance to settlement.

9 9. Prior to the Settlement Conference, the attorneys are directed to discuss
10 settlement with their respective clients and insurance representatives, so that the
11 parameters of possible settlement will have been explored well in advance of the
12 Settlement Conference. At the Settlement Conference, each party shall be fully
13 prepared to discuss all economic and non-economic factors relevant to a full and final
14 settlement of the case.

15 10. Assuming the settlement conference remains on calendar, no later than
16 4:00 p.m. five (5) court days prior thereto, each party shall **submit a Settlement**
17 **Conference Statement directly to the chambers of Magistrate Judge Kewalramani**
18 (i.e., United States District Court, Eastern Division, Riverside Courthouse, 3470
19 Twelfth Street, Courtroom 3, Riverside, California) or via e-mail to the chamber's e-
20 mail address, shk_chambers@cacd.uscourts.gov. The parties need not provide the
21 Statement to the other side, but may do so, if they choose. The Statements should not
22 be filed with the Clerk of the Court, and they will not be made part of the case file.
23 The parties must comply with Local Rule 11-3.1 by using a proportionally spaced or a
24 monospaced typeface. The size of a proportionally spaced face must be 14-point or
25 larger and a monospaced faced may not contain more than 10.5 characters per inch.

26 The parties' respective Settlement Conference Statements shall include the
27 following:

28 A. A brief statement of the facts of the case, and of the claims and defenses

1 remaining to be tried, including the statutory or other grounds upon which the claims
2 are founded. This statement should identify the major factual and legal issues in
3 dispute, and cite any controlling authorities.

4 B. An itemized statement of the damages claimed, and of any other relief
5 sought.

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

8 D. A history of past settlement discussions, offers and demands, including
9 the most recent settlement offers exchanged.

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

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

15 G. The party's evaluation of the terms on which the other side is prepared
16 to settle the case.

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

20 11. If it does not appear to the Court from its review of the parties'
21 Settlement Conference Statements that a Settlement Conference at this juncture in
22 the proceedings is likely to result in a settlement of the matter, the Court may order
23 the Settlement Conference off calendar or defer it to a later juncture in the proceedings
24 (e.g., after a pending or anticipated dispositive summary judgment motion is decided).
25 Similarly, if the parties do not believe a settlement is possible, then they shall say so in
26 their Settlement Conference Statement.

27 12. Counsel should have available for the Court's perusal copies of all key
28 documents in the case, as well as copies of all important witnesses' deposition

1 transcripts.

2 13. Any failure of the trial attorneys, parties or persons with authority to
3 attend the conference may result in sanctions to include the fees and costs expended
4 by the other parties in preparing for and attending the conference. The failure of any
5 party to timely submit a Settlement Conference Statement and Confidential
6 Addendum in compliance with this Order, or otherwise comply strictly with this
7 Order, may result in the Settlement Conference being ordered off calendar and
8 sanctions being imposed.

9 14. If settlement between any or all parties is reached as a result of the
10 Settlement Conference, it is the responsibility of counsel to immediately report the
11 settlement to the District Judge's courtroom deputy clerk, as well as to timely
12 memorialize the settlement. See Local Rule 16-14.7.

13 15. All papers submitted for the Settlement Conference will either be
14 returned to the parties or destroyed by the Magistrate Judge, after the settlement
15 proceedings are concluded, unless the parties agree otherwise.

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