Settlement Conferences

The Court views facilitation as a valuable part of the litigation process and encourages counsel to consider voluntary settlement conferences when and where appropriate. The Court is willing to serve as a facilitator upon the parties' request and/or order of reference. Based on the nature of the case and the state of settlement negotiations, the Court will endeavor to devote a half day for the conference, when possible. Counsel are advised that when settlement conferences are scheduled to begin in the morning, their schedules and those of their clients are to be cleared for the entire day. When conferences are scheduled to begin at 1:30 p.m., as they generally are, attorneys' and clients' schedules must be cleared for the entire afternoon.

A. REQUIRED PARTICIPANTS

Each party, together with its lead trial counsel or counsel of record who have primary responsibility for discovery, must attend the conference unless expressly excused by the Court. **Under no circumstances** will a party be permitted to only have counsel attend the settlement conference without the Court's prior approval. An insured party need not attend unless the settlement decision will be made in part by the insured. When the settlement decision will be made in whole or part by an insurer, the insurer must send a representative in person with full and complete authority to make settlement decisions. A corporate party must send an authorized representative with full and complete authority to make settlement decisions and to bind the company. A governmental entity must send an authorized representative with full and complete authority to make settlement decisions and to bind the governmental entity, understanding that some settlement decisions may be subject to further approval by an elected municipal board. "Full settlement authority" means authority to settle the case up to the Plaintiff's last demand or down to the Defendant's last offer. The Court encourages and invites lien holders whose rights could affect the likelihood of resolving the matter to attend the conference and/or be reachable by telephone. **A party appearing at the conference without full settlement authority will be in violation of this directive.** Failure to produce the appropriate person(s) at the conference may result in an award of costs and attorney fees incurred by the other parties in connection with the conference and/or sanctions against the noncomplying party and/or counsel.

B. PROCEDURES PRIOR TO THE CONFERENCE

The parties shall adhere to the following procedures:

At least fourteen days prior to the settlement conference, counsel for the parties shall meet and confer in a good-faith attempt to settle the case or to narrow the areas of disagreement. They shall exchange good-faith and realistic offers to settle, and shall explain to each other why their demand or offer is reasonable. If a demand or offer is rejected, the attorney who rejects shall explain to opposing counsel the reasons for the rejection. It is REQUIRED that, by the time of the settlement conference, Plaintiff(s) will have made a good-faith offer to settle the case and Defendant(s) will have made a good-faith counter-offer of settlement.

Seven days before the settlement conference, the parties shall submit confidential, *ex-parte* settlement statements directly to the Magistrate Judge's chambers. The statement must be delivered by e-mail to chambers (efile_patti@mied.uscourts.gov) If the settlement statement exceeds 10 pages, with exhibits, counsel must also submit a courtesy hard copy delivered directly to chambers at least 48 hours before the start of the settlement conference. DO NOT FILE THESE STATEMENTS WITH THE COURT. The statements will not become part of the case record, and parties are directed to be candid in their statements. **The statements shall be limited to five pages (double-spaced; 14-point font) and shall include the following:**

1. A brief description of the nature of the case;
2. A description of how you would present this case if you were on the opposing side (it is exceedingly important that you present this section objectively. **Do Not** resort to becoming an advocate, again, on behalf of your client);
3. A brief summary of all settlement discussions that have taken place to date, including the history of any offers/counter-offers that have been made, including the last demand and offer made at the pre-conference meet-and-confer;
4. A statement of why the most recent demand or offer was rejected; and
5. A realistic statement of what the party requires in order to settle the case.

Counsel may also attach up to five exhibits, which are deemed to be *particularly crucial* to demonstrate the parties' positions, e.g., photographs of an accident scene or injury, crucial contract language, key notations in a medical record, side-by-side comparison of an alleged copyright infringement, critical business records, etc. Exhibits must be separated by protruding tabs, and relevant portions of exhibits must be highlighted or they may not be read. While the settlement statement may include a summary of the facts, claims and defenses, it is not a summary judgment motion, and counsel should be mindful that the Magistrate Judge who is facilitating settlement is not trying the case or deciding dispositive motions at this point.

C. PROCEDURES DURING THE CONFERENCE

One attorney for each party should be prepared to give a short summary of their case at the beginning of the settlement conference. The summary should identify the remaining issues in the case and the evidence that supports the party's position on those issues.

At the settlement conference, the parties and their attorneys are expected to conduct themselves in a business-like manner and to negotiate in good faith. Posturing and other theatrics are counter-productive and prohibited.

The Court sends a Notice with detailed information regarding attendance and other matters. Scheduling and all other contact regarding settlement conferences is handled by the Case Manager.