JUDGE CASSLING'S SETTLEMENT CONFERENCE PROCEDURES

Consideration of settlement is a serious matter, and a settlement conference requires thorough preparation. Below are the procedures that the Court requires the parties to follow in preparing for the settlement conference and the procedures that the Court typically will employ in conducting the conference. Counsel are directed to provide a copy of this document to their clients and discuss these procedures with them prior to the settlement conference.

SETTLEMENT CONFERENCE PREPARATION

1. **PRE-SETTLEMENT CONFERENCE LETTERS.** Settlement conferences are more likely to be productive if, before the conference, the parties have exchanged their settlement positions in writing. The parties' settlement letters also provide the Court with information it needs to assist the parties in exploring settlement. Counsel should address all settlement letters to the opposing party or counsel, not to the Court. Copies of the settlement letters will be emailed to Judge Cassling's chambers when they are exchanged by the parties. The Court expects these letters to be delivered on the dates set.

   Unless the Court sets a different schedule, the parties are to simultaneously exchange and submit to the Court letters stating their positions, and any other information that may be important for the Court to know.

2. **FORMAT AND LENGTH OF PRE-SETTLEMENT CONFERENCE LETTERS.**

   The parties' letters should include the following information:

   a. A brief summary of the evidence and legal principles that each party asserts will allow it to either establish liability or a defense;

   b. A brief explanation of why damages or other relief would or would not appropriately be granted at trial;

   c. An itemization of the damages plaintiff believes can be proven at trial and a brief summary of the evidence and legal principles supporting those damages;

   d. A settlement proposal; and

   e. Any additional information the parties believe would be helpful to the Court in facilitating a resolution of the dispute.

   Persons attending the settlement conference should read the settlement letters exchanged between the parties prior to the conference. The Court recognizes that the complexity of issues affects the length of settlement letters. As a general rule, parties must limit settlement letters to no more than five (5) pages, exclusive of exhibits, unless they obtain leave of Court.

3. **ATTENDANCE OF PARTIES REQUIRED.** Unless the Court allows otherwise, parties with full settlement authority are required to attend the conference in person. If a party is an individual, that individual must attend in person. If a party is a corporation or governmental entity, a representative of that corporation or governmental entity (in addition to counsel of record) with full settlement authority must attend in person. *"Full settlement authority" means the authority to negotiate and agree to a binding settlement agreement at any level up to the settlement proposal of the plaintiff. If a party requires approval by an insurer to settle, then a representative of the insurer with full settlement authority must attend.*

   The Court strongly believes that the personal presence of the individuals with a stake in the outcome of the settlement conference, and their participation in the settlement discussions and the "give and take" that occurs at the conference, materially increases the chances of settlement. Thus, absent a showing of unusual or extenuating circumstances, the Court will not permit a party, party representative, or an insurance representative merely to be available by telephone.

4. **CONFERENCE FORMAT.** The Court generally will follow a traditional mediation format. Each side will have an opportunity to make an opening presentation to the other side, which will be followed by joint discussion with the Court and private meetings by the Court with each side. The Court expects the lawyers and the parties or their representatives to be fully prepared to participate in these discussions. The Court also encourages all parties to be willing to reassess their previous positions and to be willing to explore creative means for resolving the dispute.

5. **CONFIDENTIALITY.** The pre-conference letters and the settlement conference will be treated as confidential and not disclosed to any party, including the Court before which the matter is pending.

6. **TOPICS FOR THE SETTLEMENT CONFERENCE.** The parties and their counsel should consider and be prepared to discuss the following topics, among others, at the settlement conference:

   a. What are your objectives in the litigation?

   b. What are the strengths and, just as important, the weaknesses of your case?

   c. Do you understand the opposing side's view of the case? What is wrong with their perception? What is right with their perception?

   d. What are the points of agreement and disagreement between the parties? Factual? Legal?

   e. Does a settlement require the participation or input of a third party not a party to the case?

f. Are there any impediments to a settlement that are not discussed in the parties' settlement letters?

g. If the party hoping to prevail at trial does prevail, what remedy (i.e., damages, injunctive relief, statutory award or penalty, attorneys' fees, interest) does the law allow?

h. Are there possibilities for creative resolution of the dispute?

i. Have you considered how to deal with any outstanding liens?

ANY PARTY WHO WISHES TO VARY FROM ANY OF THE PROCEDURES SET FORTH HEREIN SHOULD MAKE AN APPROPRIATE REQUEST TO THE COURT.