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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Case No.
**SETTLEMENT CONFERENCE
ORDER**

Plaintiff,
v.
Defendant.

PLEASE READ THIS ORDER CAREFULLY

This case has been referred to Magistrate Judge Shashi H. Kewalramani for settlement proceedings. The Settlement Conference is placed on calendar for _____. The settlement conference will be held by video conference. The Court uses ZOOM as its preferred video platform. The Clerk will separately send the parties a link to access the hearing. In order to have a meaningful and productive session, the following are guidelines for the parties in preparing for the Settlement Conference.

1 The Magistrate Judge will not be involved in the actual trial of the case, but
2 rather will attempt to assist the parties in an objective appraisal and evaluation of
3 the case. In order to have a meaningful and productive session, the following are
4 guidelines for the parties in preparing for the Settlement Conference.

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

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

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

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

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26 ¹ Unless otherwise ordered by the Court, however, if this matter is a lawsuit in which the United
27 States or any of its agencies is a party, the Assistant United States Attorney who will try the case
28 may appear without a representative, provided that 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
2 authorize settlement, the attendance of at least one sitting and knowledgeable
3 member of the 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
6 cause the settlement conference to be cancelled and rescheduled. The
7 noncomplying party, attorney, or both, may be assessed the costs and expenses
8 incurred by other parties as 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**
13 **sole discretion**, an amount recommended by the settlement judge within the policy
14 limits. The purpose of this requirement is to have an insurance representative
15 present who can settle the outstanding claim or claims during the course of the
16 conference without consulting a superior. Counsel of record will be responsible
17 for timely advising any involved non-party insurance company of the requirements
18 of this Order.

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

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

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

18 In this regard, and in order to provide the parties with a starting point for
19 their settlement discussions with the Magistrate Judge, Plaintiff shall advise
20 Defendant of the terms upon which Plaintiff then is prepared to settle the case, in a
21 letter delivered or emailed **no later than ten (10) court days prior to the**
22 **Settlement Conference. Within seventy-two (72) hours of receipt of Plaintiff's**
23 **settlement offer**, Defendant shall respond to the same by letter advising Plaintiff
24 of the terms upon which such Defendant is prepared to settle the case. The Court
25 expects the parties to exchange good faith settlement offers.

26 10. Assuming the settlement conference remains on calendar, no later
27 than 4:00 p.m. five (5) court days prior thereto, each party shall **submit a**
28 **Settlement Conference Statement directly to the chambers of Magistrate**

1 **Judge Kewalramani** via e-mail to the chamber's e-mail address,
2 **shk_chambers@cacd.uscourts.gov**. The parties need not provide the Statement
3 to the other side, but may do so, if they choose. The Statements should not be filed
4 with the Clerk of the Court, and they will not be made part of the case file. Upon
5 receipt of the settlement briefs, the Court may schedule an informal ex-parte phone
6 call or zoom conference with counsel for the parties who will be attending the
7 settlement conference. Counsel is to coordinate with the Courtroom Deputy Clerk
8 for a date and time for a phone call or zoom conference with the Magistrate Judge.
9 With respect to the Settlement Conference Statement, the parties must comply with
10 Local Rule 11-3.1 by using a proportionally spaced or a monospaced typeface.
11 The size of a proportionally spaced face must be 14-point or larger and a
12 monospaced face may not contain more than 10.5 characters per inch. The
13 parties' respective Settlement Conference Statements shall include the following:

14 A. A brief statement of the facts of the case, and of the claims and
15 defenses remaining to be tried, including the statutory or other grounds upon which
16 the claims are founded. This statement should identify the major factual and legal
17 issues in dispute, and cite any controlling authorities.

18 B. An itemized statement of the damages claimed, and of any other relief
19 sought.

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

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

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

26 F. The approximate amount of attorney's fees, time and costs expended
27 to date, and an estimate of the fees, time and costs to be expended for (I) further
28 discovery, (ii) pretrial and (iii) trial.

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

3 H. The party's evaluation of the terms on which the case could be settled
4 fairly, taking into account the litigation position and settlement position of the
5 other side. This will include the most recent settlement offers exchanged pursuant
6 to ¶ 9. A copy of such party's letter sent pursuant to ¶ 9 above should be attached
7 to such party's Settlement Conference Statement.

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

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

18 13. Any failure of the trial attorneys, parties or persons with authority to
19 attend the conference may result in sanctions to include the fees and costs
20 expended by the other parties in preparing for and attending the conference. The
21 failure of any party to timely submit a Settlement Conference Statement and
22 Confidential Addendum in compliance with this Order, or otherwise comply
23 strictly with this Order, may result in the Settlement Conference being ordered off
24 calendar and sanctions being imposed.

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

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

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