

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

**SETTLEMENT CONFERENCE STANDING ORDER
FOR MAGISTRATE JUDGE LISA J. CISNEROS
(Effective October 26, 2022)**

This Standing Order governs cases referred to Magistrate Judge Lisa J. Cisneros for settlement. A telephonic pre-settlement conference meeting and Zoom settlement conference and will be set by Clerk's Notice. As set forth below, counsel *must* provide email addresses for all settlement conference participants; without these email addresses, a Zoom Invitation to join the settlement conference cannot be sent. For scheduling questions, contact Judge Cisneros's Courtroom Deputy ("CRD"), Brittany Sims, at ljccrd@cand.uscourts.gov or (415) 522-2043.

A. MEET AND CONFER REQUIREMENT

No later than **14 days** prior to the Settlement Conference, and prior to the preparation of their exchanged Settlement Conference Statements and Confidential Settlement Letters, counsel for the parties shall meet and confer (in person, by video conference, or by phone) to discuss matters pertinent to improving the prospects that the settlement negotiations will be productive. Counsel may address any subjects they feel are appropriate, but *must* discuss the following:

1. Who will attend the conference on behalf of each party, including counsel and identification of the person(s) with full authority to decide whether any settlement offer is made, accepted, or rejected (e.g., either the party or another person(s) if full authority does not rest with the party).
2. Which persons or entities must approve a proposed settlement agreement before it can be executed, as well as the nature and duration of any such approval process.
3. Whether insurance is available to cover all or part of the claimed losses or to fund all or part of any party's defense; whether tenders have been made to any insurance companies; and if insurance is available, the name and position held by each claims representative who will be attending the settlement conference.
4. Whether it would be useful for settlement demands and/or offers to be made before the settlement conference is convened.
5. Whether there are particular documents or other tangible things that should be brought to the conference (e.g., to educate the settlement judge or to support or explain significant contentions).
6. Any unusual issues or factors that could come into play in settlement negotiations or any especially sensitive matters that other counsel should be alerted to before the conference.

B. SETTLEMENT CONFERENCE STATEMENTS

No later than **7 days** prior to the Settlement Conference, counsel for each party shall email a pdf of their Settlement Conference Statement to ljcsettlement@cand.uscourts.gov. Counsel shall serve a copy of the Settlement Conference Statement on all parties. Counsel is *strongly encouraged* to share with their client(s) the contents of the opposing party's Settlement Conference Statement(s) prior to the settlement conference.

The Settlement Conference Statement shall not exceed ten pages of text. Parties are encouraged to include as exhibits any key documents and deposition excerpts. The exhibits to the Settlement Conference Statement shall not exceed twenty pages. The Settlement Conference Statement *must* include the following:

1. A brief statement of the facts of the case.
2. A brief statement of the claims and defenses including, but not limited to, the statutory or other grounds upon which the claims or defenses are founded.
3. A description of the key factual and legal issues that are in dispute and a plain and concise statement of the specific evidence relevant to their determination. Portions of any exhibits relied upon by the parties shall be referenced and highlighted.
4. A summary of the proceedings to date and any pending motions.
5. The relief sought, the basis for any damage calculations, and a description of any non-monetary relief sought or non-monetary components of settlement offers or demands.
6. A list of the names, titles, positions, and email addresses of all persons who will be attending the conference on behalf of each party. Counsel, for their respective party, shall provide *email addresses of counsel, clients or representatives* who will attend the conference so they may receive a Zoom Invitation from the Court.
7. Where the party is a governmental entity, a description of which persons or entities must approve a proposed settlement agreement before it can be executed, as well as the nature and duration of that approval process.

C. CONFIDENTIAL SETTLEMENT LETTERS

No later than **7 days** prior to the Settlement Conference, each counsel shall email a pdf of their Confidential Settlement Letter to ljcsettlement@cand.uscourts.gov. The Confidential Settlement Letter shall not be served upon the other parties. The Confidential Settlement Letter, not to exceed five pages of text, *must* include the following:

1. Separately for each principal claim and defense, a forthright evaluation of the strengths and weaknesses and likelihood that the party submitting the Confidential

Settlement Letter will prevail. Citations to any key legal authorities relied upon by the parties as part of this evaluation shall be provided.

2. An estimate of out-of-pocket expenses, attorneys' fees, and time: (a) spent to date and (b) to be expended for further discovery, pretrial preparation, and trial. If plaintiff seeks attorneys' fees and costs, counsel shall be prepared at the conference to provide sufficient information to enable the fee claim to be evaluated for settlement purposes.
3. A history of past settlement discussions (without revealing communications whose disclosure to a settlement judge is prohibited), a description of the principal impediments (factual, legal, or other) to reaching agreement, and the reason the parties' assessments of the settlement value of the case differ.
4. A realistic settlement figure or terms (including any non-monetary terms) that, given all the circumstances, the party submitting the Confidential Settlement Letter would consider seriously.
5. Where the party is insured or is a governmental entity, any foreseeable barriers to insurance coverage or approval of a proposed settlement, or special concerns that the insurer or governmental entity might want addressed.
6. A brief discussion of any of the subjects identified in Section A of this Order that might be significant in the settlement dynamic.

D. ATTENDANCE REQUIREMENTS

Lead trial counsel *must* attend the settlement conference with the parties and persons having full authority to negotiate and settle the case by Zoom Video Conference.

1. Corporation or Other Non-Government Entity

A party other than a natural person (e.g., a corporation or association) satisfies the attendance requirement if represented by a person (other than outside counsel) who is knowledgeable about the case and has final authority to settle up to the full amount of the opposing party's existing settlement demand or offer. If authority to settle is vested in a governing board, claims committee, or equivalent body and cannot be delegated, a party must designate a person with authority to participate in the settlement conference and, if a tentative settlement agreement is reached, to recommend the agreement to the appropriate body for approval. See N.D. Cal. ADR L.R. 7-3(a).

2. Government Entity

A party that is a government entity satisfies the attendance requirement if represented by a person (in addition to counsel of record) who (a) has, to the greatest extent feasible, authority to settle, (b) is knowledgeable about the facts of the case, the government entity's position, and the positions and policies under which the government entity decides whether to accept proposed settlements, and (c) has the authority, if a tentative settlement agreement is reached, to recommend the agreement to the government entity for approval. See N.D. Cal. ADR L.R. 7-3(b). If the action is brought by the government on behalf of one or more individuals, at least one such individual also must attend. See id.

3. Insured Party

An insured party must appear with a representative of the carrier who has full authority to negotiate up to the limits of coverage. See N.D. Cal. ADR L.R. 7-3(c). A person who needs to call another person, not present, before agreeing to any settlement does not have full authority.

E. MISCELLANEOUS

1. Settlement Conferences

Settlement conferences regularly last three or more hours. During the settlement conference, parties should be prepared to discuss such issues as: (1) their settlement objectives; (2) any impediments to settlement they perceive; (3) whether they have enough information to discuss settlement and, if not, what additional information is needed; and (4) the possibility of a creative resolution of the dispute. Statements made during the conference are confidential and will not be admissible at trial if the case does not settle. See N.D. Cal. ADR L.R. 7-4.

2. Continuances

Any request to continue the Settlement Conference must be filed on ECF as soon as possible after meeting and conferring with opposing counsel, and well in advance of the scheduled date. The request must demonstrate a compelling reason for a continuance and state whether it is joined or opposed by the other party(ies). The original settlement conference date will remain on calendar and the parties *must* appear on that date unless they receive an order from the Court continuing the matter.

3. Additional Requirements

The parties shall notify chambers immediately at (415) 522-4020 if the case settles prior to the date of the settlement conference. Counsel must provide a copy of this order to all participating parties. Counsel must review Northern District of California ADR Local Rule 7, available at <https://www.cand.uscourts.gov/about/court-programs/alternative-dispute-resolution-adr/adr-local-rules>.