

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

,
Plaintiff(s),
v.
,
Defendant(s).

No.

**SETTLEMENT CONFERENCE
ORDER**

This case has been referred to United States Magistrate Judge Bridget S. Bade for a settlement conference to facilitate resolution of the case. (Doc. ____.)

Rule 408 of the Federal Rules of Evidence applies to all aspects of the settlement conference. All communications and information exchanges made in the settlement process, not otherwise discoverable, will not be admissible in evidence for any purpose. All matters communicated expressly in confidence to the settlement judge will be kept confidential and will not be disclosed to any other party. At the conclusion of the settlement conference, all documents submitted by the parties will be returned, destroyed, or otherwise disposed of in the manner directed by the settlement judge.

Pursuant to Rule 16, Federal Rules of Civil Procedure, and 28 U.S.C. § 473(b)(5), **IT IS ORDERED** that all parties and, if represented, their counsel, shall physically appear before United States Magistrate Judge Bridget S. Bade, Courtroom ____, Sandra Day O'Connor United States Courthouse, 401 West Washington Street, Phoenix, Arizona, on _____ at _____. The Court has allocated a minimum of two

1 hours for the Settlement Conference; however, if meaningful progress is being made the
2 conference will continue until either the case settles, or meaningful progress is no longer
3 being made.

4 **At least fourteen days before the Settlement Conference**, counsel who will
5 attend the Settlement Conference must call chambers at (602) 322-7680 to schedule a
6 conference call between counsel and the settlement judge. This conference call must take
7 place sometime during the week of _____. During this call, counsel and the Court will
8 address procedural matters to facilitate the Settlement Conference.

9 Counsel who will be responsible for trial of the lawsuit for each party must
10 personally appear and participate in the Settlement Conference. In addition,
11 representatives of the parties with full, complete, and unlimited authority to discuss and
12 settle the case must be physically present unless expressly excused by timely motion and
13 an order issued prior to the Settlement Conference for good cause shown.

14 If a Defendant is an insured party, a representative of that party's insurer with full,
15 complete, and unlimited authority to discuss and settle the case **MUST** physically appear
16 at the Settlement Conference. An uninsured or self-insured corporation, association,
17 partnership, business entity, organization, governmental agency, or political body **MUST**
18 physically appear at the Settlement Conference through its authorized representative with
19 full, complete, and unlimited authority to discuss and settle the case.¹

20 Before arriving at the Settlement Conference the parties must negotiate and make
21 a good faith effort to settle the case without the Court's involvement. The parties shall
22 exchange written correspondence regarding settlement. The Plaintiff's demand must be
23 delivered to defense counsel **at least fourteen days** before the Settlement Conference.
24 Defendant's response to the demand must be delivered to Plaintiff's counsel **at least**
25 **seven days** before the Settlement Conference.

26
27 ¹ The requirement that a representative physically appear with full, complete, and
28 unlimited authority is only satisfied where the representative is the decision-maker with
full authority to settle the matter: for a party asserting a claim, this means full authority to
stipulate to dismissal and release of all claims; for a party defending a claim, this means
full authority to satisfy the opposing party's existing settlement demand or offer.

1 Each party must provide the Court with a Settlement Conference Memorandum **at**
2 **least seven days before the Settlement Conference.** The parties may deliver their
3 memoranda directly to chambers (Suite 321 at the Sandra Day O'Connor United States
4 Courthouse, 401 West Washington Street, Phoenix, Arizona; *not* to the Clerk's office or
5 customer service window), or submit them by facsimile (602-322-7689), or by electronic
6 mail (bade_chambers@azd.uscourts.gov). If a party's memorandum and any exhibits
7 exceed twenty-five pages, a hard copy must be delivered to chambers. **The Settlement**
8 **Conference Memoranda must NOT be filed with the Clerk of Court.**

9 Absent a showing of good cause, and prior express permission from the Court to
10 submit their memoranda as confidential, the parties must exchange their memoranda on
11 the day they are submitted to the Court. The memoranda shall include the following
12 information.

13 (1) A brief statement of the facts of the case.

14 (2) A brief statement of the claims or defenses as appropriate for the party, i.e.,
15 statutory or other grounds upon which the claims or defenses are founded, including the
16 citation to appropriate authorities, a forthright evaluation of the parties' likelihood of
17 prevailing on the claims and defenses, and a description of the major issues in dispute.

18 (3) A summary of the proceedings to date including rulings on motions and
19 pending motions, if any.

20 (4) An estimate of the costs and time to be expended for further discovery,
21 pretrial litigation and trial, including past and future attorneys' and experts' fees.

22 (5) A brief statement of the facts and issues upon which the parties agree.

23 (6) Whether there are any distinct or dominant issues which, if resolved, would
24 likely aid in the disposition of the case.

25 (7) The relief sought.

26 (8) Each party's position on settlement, including present demands and offers
27 and the history of past settlement discussions, offers, and demands.

28

1 Each party's Settlement Conference Memorandum must not exceed seventeen
2 pages exclusive of attachments and must otherwise comply with the Rules of Practice for
3 the District Court. *See* LRCiv 7.1 and 7.2. No responsive memoranda shall be permitted.

4 If any party believes that the Settlement Conference would be futile and would
5 result in economic waste because, for example, a party or insurer has adopted a position
6 from which they refuse to deviate, they must notify the Court in writing at least seven
7 days before the Settlement Conference. The Court will consider whether the Settlement
8 Conference would be helpful and, if not, whether the Settlement Conference should be
9 cancelled. If there is disagreement between the attorneys or unrepresented parties on this
10 issue, they must arrange for a telephonic conference with the Court and all counsel as
11 soon as reasonably practical. If no such conference is arranged, the Court will presume
12 that all counsel, their clients, and any unrepresented party believe that there is a
13 reasonable, good faith opportunity for settlement, and that the involvement of a
14 settlement judge is needed to accomplish it.

15 Absent good cause shown, if any party, counsel, or representative fails to promptly
16 appear at the Settlement Conference, fails to comply with the terms of this Order, is
17 substantially unprepared to meaningfully participate in the Settlement Conference, or
18 fails to participate in good faith in the Settlement Conference, sanctions may be imposed
19 pursuant to Rules 16(f) and 37(b)(2)(D) of the Federal Rules of Civil Procedure, which
20 may include an award of reasonable attorney's fees and expenses, and a finding of
21 contempt. *See* 28 U.S.C. § 636(e).

22 Dated this ___ day of ____, ____.

23
24
25 _____
26 Bridget S. Bade
27 U.S. Magistrate Judge
28