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**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 John Z. Boyle for a Settlement Conference.

Rule 408 of the Federal Rules of Evidence applies to all aspects of the Settlement Conference. All communications and information exchanged during the settlement process, not otherwise discoverable, will not be admissible in evidence for any purpose. All matters communicated expressly in confidence to the Court during the Settlement Conference will be kept confidential and will not be disclosed to any other party absent express consent to do so. 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 Court.

Pursuant to Rule 16 of the 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 John Z. Boyle, in Courtroom 302, Sandra Day O'Connor U.S. Courthouse, 401 West Washington Street, Phoenix, Arizona,

1 on _____ at _____. The Conference will continue until either the case settles
2 or the parties are no longer making meaningful progress.

3 Prior to the Settlement Conference, the parties must negotiate and make a good
4 faith effort to settle the case without the Court's involvement. Plaintiff must deliver a
5 written settlement demand to Defendant at least **fourteen days** before the Settlement
6 Conference. Defendant must deliver a written response to Plaintiff at least **seven days**
7 before the Settlement Conference. Prior to the Settlement Conference, the Court may
8 contact counsel for each party individually to schedule separate conference calls. During
9 these conference calls, the Court will discuss the status of settlement and any matters to
10 facilitate the Settlement Conference.

11 Each party must provide the Court with a Confidential Settlement Conference
12 Memorandum at least **seven days** before the Settlement Conference. The parties may
13 include with their Memoranda copies of exhibits they would like the Court to review
14 prior to the Settlement Conference. However, the parties shall not include copies of any
15 pleadings or other documents for review that were previously submitted to the Court and
16 are already part of the record. The parties shall instead direct the Court to the location of
17 any such pleadings or documents.

18 Each party's Confidential Settlement Conference Memorandum must not exceed
19 five pages exclusive of attachments and must contain the following information:

- 20 1. A brief statement of the facts of the case;
- 21 2. An analysis of the claims or defenses as appropriate for the party, including
22 citation to appropriate authorities, a forthright evaluation of the parties'
23 likelihood of prevailing on the claims and defenses, and a description of the
24 major issues in dispute;
- 25 3. A summary of the proceedings to date, including rulings on motions,
26 pending motions, and the status of discovery;
- 27 4. Whether there are distinct or dominant issues which, if resolved, would
28 likely aid in the disposition of the case;
5. An estimate of the fees and costs incurred to date, as well as an estimate of
the fees and costs to be expended for further discovery, dispositive motions,
and trial;
6. A reasonable estimate of Plaintiff's alleged damages;

- 1 7. A summary of prior settlement discussions and offers;
- 2 8. Each party's current position on settlement; and
- 3 9. Any other information that the parties believe would help the Court
- 4 facilitate the Settlement Conference.

5 The parties may deliver their Memoranda directly to chambers (Sandra Day
6 O'Connor United States Courthouse, 401 West Washington Street, Phoenix, Arizona,
7 85003, Suite 321) or submit them by electronic mail
8 (boyle_chambers@azd.uscourts.gov). However, if a party's Memorandum with any
9 exhibits exceeds twenty-five pages, the party must deliver a hard copy to chambers. **The**
10 **parties shall not file their Confidential Settlement Conference Memoranda with the**
11 **Clerk of the Court. The parties also shall not exchange their Confidential**
12 **Settlement Conference Memoranda.**

13 Counsel who will be responsible for trial of the lawsuit for each party shall
14 personally appear and participate in the Settlement Conference. In addition,
15 representatives of the parties with full and binding authority to dismiss and settle the case
16 must be physically present unless expressly excused for good cause by timely motion and
17 an order issued prior to the Settlement Conference. If a party is an insured party, a
18 representative of that party's insurer with full and binding authority to discuss and settle
19 the case must physically appear at the Settlement Conference.

20 Counsel and any unrepresented party shall notify the Court in writing at least **five**
21 **business days** before the Settlement Conference if one or more of the attorneys or
22 unrepresented parties believe that the Settlement Conference would be futile because, for
23 example, a party or insurer has adopted a position from which they refuse to deviate. The
24 Court will arrange a telephonic conference with counsel and any unrepresented party as
25 soon as possible. If the Court is not notified by either party that a Settlement Conference
26 would be futile, the Court will presume that all counsel, their clients, and any
27 unrepresented party believe that there is a reasonable, good faith opportunity for
28 settlement.

1 Absent good cause, if any party, counsel, or representative fails to promptly
2 appear at the Settlement Conference, fails to comply with the terms of this Order, is
3 substantially unprepared to meaningfully participate in the Settlement Conference, or
4 fails to participate in good faith in the Settlement Conference, the Court may impose
5 sanctions pursuant to Rules 16(f) and 37(b)(2) of the Federal Rules of Civil Procedure.
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