

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

**MANDATORY SETTLEMENT CONFERENCE PROCEDURES  
MAGISTRATE JUDGE DAVID D. LESHNER**

**1. Formal Settlement Proposals:** No later than 28 calendar days before the Mandatory Settlement Conference (“MSC”), the Plaintiff must serve on the Defendant a written settlement proposal, which must include a specific monetary demand (and, if applicable, a demand for specific remediation or other action). The Defendant must respond to the Plaintiff in writing with a specific offer amount no later than 21 calendar days before the MSC. The parties shall not file or copy the Court on these exchanges.

**2. Meet and Confer Requirement:** No later than 14 calendar days before the MSC, counsel for the parties must meet and confer in person or via videoconference (not by email) to discuss the following:

- A. How the Court can best assist the parties in reaching a settlement in light of the parties’ respective settlement positions.
- B. Who will attend the MSC on behalf of each party, including counsel, client representatives with full authority to make final decisions regarding any settlement offer, and any insurance representatives.
- C. Identification of any persons or entities, such as a board of directors, who must approve a proposed settlement agreement, as well as the nature and duration of any approval process.
- D. Insurance coverage available to cover all or part of the claimed losses or to fund all or part of any party’s defense, and the status of any tenders for coverage.

**3. MSC Statements and Confidential Settlement Letters:** No later than 10 calendar days prior to the MSC, each party shall submit a MSC Statement that will be exchanged with the other parties. Each party may also submit an optional Confidential Settlement Letter (not to exceed 5 pages) that will be for the Court’s review only. Both the MSC Statement and the Letter (if one is submitted) shall be lodged (not filed) via email (efile\_leshner@casd.uscourts.gov).

**4. Contents of MSC Statement:** Each party's MSC Statement shall not exceed 10 pages of text and 20 pages of exhibits and shall include the following:

**A. Substance of the Suit**

- i. A brief statement of the facts of the case.
- ii. The claims and defenses, including the statutory or other grounds upon which the claims are founded.
- iii. A summary of the proceedings to date, including a list of the motions previously made, their dispositions, and any pending motions.
- iv. A statement of facts not reasonably in dispute.
- v. A list of the key facts in dispute and the specific evidence relevant to a determination of those facts.
- vi. Any discrete issue that, if resolved, would facilitate the resolution of the case.
- vii. A brief statement of the issues of law with respect to liability and damages. The statement must be supported by legal authority, but extended legal argument is not necessary.

**B. Relief Sought.** A statement of the relief sought, including an itemization of damages and any other non-monetary relief.

**C. Settlement Discussions/Proposal and Response.** Except to the extent prohibited by applicable rules of privilege, a summary of any prior settlement negotiations, including the settlement proposals exchanged pursuant to paragraph 1, above.

**5. Additional Settlement Information:** The parties must submit the additional information below either in the MSC Statement or the Confidential Settlement Letter:

**A. Settlement Analysis.** The party's perspective regarding why the parties' assessments of the settlement value of the case differ.

**B. Litigation Costs.** A statement of litigation costs and attorney fees incurred to date, as well as the estimated costs, fees, and time projected for further discovery, pretrial proceedings, and trial. If a party seeks attorney fees and costs as part of the settlement, that party shall provide the legal basis for the claim and sufficient information to evaluate the amount of fees claimed.

**C. Other Information:** Include any other information that might be pertinent to settlement, including the following:

- i. What needs of your client must be met for the parties to reach a settlement?
- ii. What needs of the opposing party must be met to reach a settlement?
- iii. The main obstacles (factual, legal, or other) to reaching agreement, and what might be done to solve them.
- iv. A realistic settlement figure or terms that, given all the circumstances, the party submitting the Confidential Settlement Letter would consider seriously.

**6. Who Must Attend:** Lead trial counsel shall appear at the MSC with the parties. Any party who is not a natural person shall be represented by the person(s) with full authority to negotiate a settlement. An insured party shall appear with a representative of the carrier with full authority to negotiate up to the limits of coverage. Limited authority (i.e., authority up to a specific dollar amount) is not full authority. A person who needs to call another person who is not present before agreeing to any settlement does not have full authority. Personal attendance of a party is mandatory and will only be excused upon a written request that is timely under the circumstances and demonstrates extraordinary hardship. The parties and their counsel should be prepared to attend the MSC in person. The Court may, in its discretion, elect to conduct the MSC remotely.

Dated: March 23, 2023