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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA-WESTERN DIVISION

NUSHUNE M. HEREDIA, ET AL,) Case No. ED CV 98-151-RT(BQRx)
)
Plaintiff,) SETTLEMENT CONFERENCE
) ORDER
vs.)
)
GERALD L. ERRAULT, ET AL.)
)
Defendant.)

PLEASE READ THIS ORDER CAREFULLY!

Magistrate Judge Brian Quinn Robbins will act as a settlement judge in this matter. The Magistrate Judge will not be involved in the actual trial of the case and will assist in an objective appraisal and evaluation of the lawsuit. The following are guidelines for the parties in preparing for the Settlement Conference.

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

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1 2. Neither the Settlement Conference Statements nor
2 communications of any kind occurring during the Settlement
3 Conference can be used by any party with regard to any aspect of the
4 litigation or trial of the case.
5

6 3. In addition to counsel who will try the case being
7 present, a person with full settlement authority should likewise be
8 present for the conference. This requirement contemplates the
9 presence of your client or, if a corporate or governmental entity,
10 an authorized and knowledgeable representative of your client.^{1/}
11 The plaintiff's representative must have full and final authority,
12 in the representative's discretion, to authorize dismissal of the
13 case with prejudice, or to accept a settlement amount recommended by
14 the settlement judge down to the defendant's last offer. The
15 defendant's representative must have final settlement authority to
16 commit the defendant to pay, in the representative's discretion, a
17 settlement amount recommended by the settlement judge up to the
18 plaintiff's prayer (excluding punitive damage prayers), or up to the
19 plaintiff's last demand, whichever is lower.
20

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

25 ^{1/} However, if this matter is a lawsuit in which the United
26 States or a federal agency is a defendant, an Assistant United
27 States Attorney may appear without a representative, pursuant to
28 Local Rule 23.6.2.

1 4. If Board approval is required to authorize settlement, the
2 attendance of at least one sitting and knowledgeable member of the
3 Board (preferably the Chairman) is absolutely required.

4
5 5. Counsel appearing without their clients (whether or not
6 they have been given settlement authority) will cause the conference
7 to be canceled and rescheduled. The noncomplying party, attorney,
8 or both, may be assessed the costs and expenses incurred by other
9 parties as a result of such cancellation.

10
11 6. Any insurance company that is a party to the case or is
12 contractually required to defend or to pay damages assessed within
13 policy limits, should have a settlement representative present at
14 the conference. Such representative must have final settlement
15 authority to commit the company to pay, in the representative's
16 discretion, an amount recommended by the settlement judge within the
17 policy limits. The purpose of this requirement is to have an
18 insurance representative present who can settle the outstanding
19 claim or claims during the course of the conference without
20 consulting a superior. An insurance representative authorized to
21 pay, in his or her discretion, up to the plaintiff's last demand
22 will also satisfy this requirement. Counsel of record will be
23 responsible for timely advising any involved non-party insurance
24 company of the requirements of this Order.

25
26 7. In unusual circumstances an insurance company settlement
27
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1 representative or party may be permitted to be available
2 telephonically. Such requests must be submitted in writing six (6)
3 court days prior to the Settlement Conference with the reasons
4 therefore stated under penalty of perjury. It must be shown that
5 attendance would constitute hardship. The request must be submitted
6 directly to the chambers of Magistrate Judge Robbins, Room 324,
7 with a copy to the other counsel.

8
9 ******PLEASE NOTE: Under no circumstances may a party or**
10 **representative not attend a Settlement Conference without prior**
11 **authorization by the Court.**

12
13 8. The settlement judge may, in his discretion, converse with
14 the lawyers, the parties, the insurance representatives, or any one
15 of them outside of the hearing of the others. The comments of the
16 judge during such separate sessions are not to be used by counsel in
17 settlement negotiations with opposing counsel. This is a necessary
18 requirement in order to avoid intentional or unintentional
19 misquotation of the judge's comments. If all counsel and parties
20 are not present to hear the Court's opinions, it is all too easy for
21 counsel to misrepresent the Court's comments in an effort to obtain
22 a tactical advantage with opposing counsel. Violation of this
23 policy may be misleading and therefore a hindrance to settlement.

24
25 9. Prior to the Settlement Conference, the attorneys are
26 directed to discuss settlement with their respective clients and
27

1 insurance representatives, so the parameters of possible settlement
2 have been explored well in advance of the Settlement Conference.

3
4 10. A Settlement Conference Statement of each party must be
5 submitted directly to the chambers of Magistrate Judge Robbins, Room
6 324), no later than two (2) court days before the conference. The
7 parties shall exchange the statements on the same date, which should
8 not be filed with the Clerk of the Court.

9
10 The Settlement Conference Statement shall include the
11 following:

12 A. A brief statement of the facts of the case, and of the
13 claims and defenses, i.e., the statutory or other grounds upon which
14 the claims are founded. This statement should identify the major
15 factual and legal issues in dispute.

16 B. An itemized statement of the damages claimed, and of any
17 other relief sought.

18 C. A summary of the proceedings to date.

19 D. A history of past settlement discussions, offers and
20 demands. If no discussions have taken place, the Court encourages
21 the attorneys to discuss settlement, and exchange demands and offers
22 prior to the Settlement Conference.

23
24 The parties may also prepare a Settlement Conference Statement
25 Confidential Addendum, which shall be delivered directly to
26 Magistrate Judge Robbins only, along with the Settlement Conference

1 Statement. The Confidential Addendum shall not be filed with the
2 Court or served upon the other parties. The Confidential Addendum
3 shall contain:

4
5 A. A forthright evaluation of the party's likelihood of
6 prevailing on each of its claims and/or defenses.

7 B. Approximate attorney's fees, time and costs expended to
8 date, and an estimate of the fees, time and costs to be expended for
9 further discovery, pretrial and trial.

10 C. The party's evaluation of the terms on which the case
11 could be settled fairly.

12
13 The settlement conference statements may not exceed ten (10)
14 pages in length and will not be made a part of the case file.

15
16 11. Any failure of the trial attorneys, parties or persons
17 with authority to attend the conference will result in sanctions to
18 include the fees and costs expended by the other parties in
19 preparing for and attending the conference. Failure to timely
20 deliver a Settlement Conference Statement and Confidential Addendum
21 will also result in sanctions.

22
23 12. At the commencement of the conference, each party through
24 counsel may be required to make an oral presentation (not to exceed
25 10 minutes) of the relevant facts and law, in the presence of all
26 parties and counsel.

1 13. If settlement between any or all parties is reached as a
2 result of the Settlement Conference, it is the responsibility of all
3 counsel to immediately report the settlement to the District Judge's
4 courtroom deputy clerk, as well as to timely memorialize same. See
5 Local Rule 23.8.

6
7 14. The Settlement Conference is set for 2:00 p.m. on the 4th
8 day of May, 2000, in Courtroom 23 on the Third Floor of the United
9 States Courthouse, 312 North Spring Street, Los Angeles, California.

10
11 DATED: 3-17-2000



12 BRIAN QUINN ROBBINS
13 UNITED STATES MAGISTRATE JUDGE

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