

1 days prior to the settlement conference, defendant's counsel shall submit a good faith written
2 *offer* to plaintiff's counsel with a brief explanation of why the offer is appropriate.

3 On occasion, this process will lead directly to a settlement. If settlement is not achieved,
4 plaintiff's counsel shall deliver or fax copies of all settlement proposals along with his/her
5 *Confidential Settlement Conference Statement* to chambers. Copies of these documents are not
6 to be filed on the court docket.

7 B. Confidential Settlement Conference Statement

8 At least four (4) calendar days prior to the settlement conference, the parties shall submit
9 the *Confidential Settlement Conference Statement* to Judge Austin's chambers via
10 gsaorders@caed.uscourts.gov. This statement shall include the following:

11 1. A list of all elements of each cause of action or affirmative defense pled in
12 the party's respective complaint or answer;

13 2. A brief statement identifying those facts that support each cause of action
14 or affirmative defense;

15 3. A description outlining the factual and legal contentions upon which the
16 parties agree or disagree;

17 4. A description identifying the impediments to settlement, including
18 financial, emotional or legal concerns;

19 5. A summary of the settlement attempts to date;

20 6. A statement of the specific relief sought; and

21 7. A statement identifying any third party (i.e., lien holder, etc.) with a legal
22 interest in this action.

23 C. Attendance

24 The attorneys who will try the case shall appear at the settlement conference accompanied
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1 by the named parties and all persons having authority to negotiate the settlement.¹ If appropriate,
2 the principal representative shall have approval to settle the action on the terms consistent with the
3 opposing party's most recent demand.

4 D. Mediation Format

5 A mediation format will be employed during the settlement conference. The lawyers, the
6 parties, and all representatives must be fully prepared and will be expected to participate. The
7 Court encourages all participants to be flexible and to reassess their previous positions, as well as
8 put to forth their best efforts toward reaching a mutually agreeable settlement.

9 E. Statements Inadmissible

10 The Court expects full and candid participation during the settlement conference. With
11 this in mind, statements made by any party or attorney during the settlement conference are not to
12 be used in discovery and will not be admissible at trial.

13 F. Sanctions

14 Failure to follow this procedure will result in removal of the settlement conference from
15 the Court's calendar and may result in additional sanctions.

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17 IT IS SO ORDERED.

18 **Dated: February 28, 2012**

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE

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25 ¹Insurance carriers, business organizations, and governmental agencies whose settlement
26 agreements are subject to approval by legislative bodies, executive committees, boards of
27 directors, et cetera, shall be represented by a person or persons who occupy high executive
28 positions in the party organization and who will be directly involved in the process of approval of
any settlement offers or agreements.