

1 calendar days prior to the settlement conference, plaintiff's counsel shall submit a written
2 itemization of damages and a good faith *settlement demand* to defendant's counsel with a brief
3 explanation of why the demand is appropriate. Thereafter, but no later than seven (7) calendar
4 days prior to the settlement conference, defendant's counsel shall submit a good faith written
5 *offer* to plaintiff's counsel with a brief explanation of why the offer is appropriate.

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

10 B. Confidential Settlement Conference Statement

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

- 14 1. A list of all elements of each cause of action or affirmative defense pled in
15 the party's respective complaint or answer;
- 16 2. A brief statement identifying those facts that support each cause of action
17 or affirmative defense;
- 18 3. A description outlining the factual and legal contentions upon which the
19 parties agree or disagree;
- 20 4. A description identifying the impediments to settlement, including
21 financial, emotional or legal concerns;
- 22 5. A summary of the settlement attempts to date;
- 23 6. A statement of the specific relief sought; and
- 24 7. A statement identifying any third party (i.e., lien holder, etc.) with a legal
25 interest in this action.

26 C. Attendance

27 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.

16 IT IS SO ORDERED.

17 **Dated: March 2, 2012**

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE

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