

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

SHARON RENEE HILL,

1:11-cv-00464-GSA

Plaintiff,

ORDER RE: SETTLEMENT CONFERENCE

vs.

Date: 11/23/11
Time: 10:30 a.m.
Place: 9th Floor Chambers
Judge: Hon. Sandra M. Snyder

KOHL'S DEPARTMENT STORES,
INC.,

Defendant.

_____ /

Pursuant to the Minutes (Doc. 32) issued following the Status Conference held on October 27, 2011, this case is set for a Settlement Conference on November 23, 2011 at 10:30 a.m., Ninth Floor Chambers, before the Honorable Sandra M. Snyder, United States Magistrate Judge.

Therefore, consideration of settlement is a serious matter that requires thorough preparation prior to the Settlement Conference. Accordingly, the following is HEREBY ORDERED (to the best of pro se plaintiff's ability):

//
/

1 **1. Pre-Settlement Conference Exchange of Demand and Offer**

2 A Settlement Conference is more likely to be productive
3 if, prior thereto, the parties exchange written settlement
4 proposals. **IDEALLY**, at least fourteen (14) days prior to the
5 Settlement Conference, plaintiff shall submit a written
6 itemization of damages and settlement demand to defense counsel,
7 together with a brief summary of the legal and factual basis
8 supporting the demand. **IDEALLY**, no later than seven (7) days
9 prior to the Settlement Conference, defense counsel shall submit
10 a written offer to plaintiff, together with a brief summary of
11 the legal and factual basis supporting the offer.

12 **2. Submission and Content of Mandatory Confidential**
13 **Settlement Conference Statements**

14 Defendant is to e-mail a Confidential Settlement
15 Conference Statement directly to frobles@caed.uscourts.gov, no
16 later than five (5) days prior to the Settlement Conference, or
17 by November 16, 2011. Pro se plaintiff, Sharon Hill, shall mail
18 her Confidential Settlement Conference Statement directly to
19 Judge Snyder's chambers as follows:

20 **CONFIDENTIAL**

21 Hon. Sandra M. Snyder
22 United States District Court
23 2500 Tulare Street, Suite 1501
24 Fresno, CA 93721

25 Additionally, defendant shall e-file a Notice of Submission of
26 Confidential Settlement Conference Statement in compliance with
27 Local Rule 270(d).

28 //

/

1 Confidential Settlement Conference Statements (are
2 typically typed and double spaced and) shall include the
3 following:

4 a. A brief summary of the core facts, allegations,
5 and defenses.

6 b. A summary of the proceedings to date.

7 c. An estimate of the cost and time to be expended
8 for further discovery, pretrial, and trial.

9 d. The nature of the relief sought.

10 e. An outline of past settlement efforts, including
11 information regarding the "Pre-Settlement Conference Exchange of
12 Demand and Offer" required above, and a history of past
13 settlement discussions, offers, and demands.

14 f. A statement of each party's expectations and goals
15 for the Settlement Conference.

16 **3. Attendance of Trial Counsel and Parties Required**¹

17 *The attorneys who will try the case and parties with*
18 *full and complete settlement authority are required to personally*
19 *attend. An insured party shall appear by a representative of the*
20 *insurer who is authorized to negotiate, and who has authority to*
21 *settle the matter up to the limits of the opposing parties'*
22 *existing settlement demand. An uninsured corporate party shall*
23 *appear by a representative authorized to negotiate, and who has*
24 *authority to settle the matter up to the amount of the opposing*
25 *parties' existing settlement demand or offer. Having a client*

27 ¹ However, during the status conference on 10/27/11, Judge Austin granted defendant's client and/or
28 representative permission to be immediately available by telephone throughout the Settlement Conference, until
excused by the Court, regardless of time zone differences.

1 with authority available by telephone is *not* an acceptable
2 alternative, except under the most extenuating circumstances,
3 which does not include out-of-town or out-of-state travel and the
4 purchase of an airplane ticket. The Court generally sets aside
5 at least a couple of hours for each conference. Therefore, it is
6 difficult for a party who is not present to appreciate the
7 process and the reasons that may justify a change in one's
8 perspective toward settlement.

9 The Court expects all counsel, parties, and/or party
10 representatives to be fully prepared to participate. The Court
11 encourages all parties to keep an open mind in order to reassess
12 their previous positions and to discover creative means for
13 resolving the dispute.

14 **4. Issues to be Discussed**

15 The parties *shall* be prepared to discuss the following
16 at the Settlement Conference:

17 a. Goals in the litigation and problems they would
18 like to address in the Settlement Conference and understanding of
19 the opposing side's goals.

20 b. The issues (inside and outside the lawsuit) that
21 need to be resolved.

22 c. The strengths and weaknesses of their case.

23 d. Their understanding of the opposing side's view of
24 the case.

25 e. The points of agreement and disagreement (factual
26 and legal) between the parties.

27 f. Any financial, emotional, and/or legal impediments
28 to settlement.

1 g. Whether settlement or further litigation better
2 enables the accomplishment of their respective goals.

3 h. Any possibilities for a creative resolution of the
4 dispute.

5 **5. Statements Inadmissible**

6 The parties are expected to address each other with
7 courtesy and respect, and are encouraged to be frank and open in
8 their discussions. Statements made by any party during the
9 Settlement Conference are not to be used in discovery and will
10 not be admissible at trial.

11 **6. Persons Appearing In Propria Persona**

12 Local Rule 183(a) ~ Rules Governing Appearance ~
13 states, in part, that:

14 Any individual representing himself or
15 herself without an attorney is bound by the
16 Federal Rules of Civil or Criminal Procedure,
17 these Rules, and all other applicable law.
18 All obligations placed on "counsel" by these
19 Rules apply to individuals appearing in
20 propria persona. Failure to comply therewith
21 may be ground for dismissal, judgment by
22 default, or any other sanction appropriate
23 under these Rules.

24 Additionally, Local Rule 131(a) ~ Counsel
25 Identification And Signatures ~ requires, in part, that:

26 . . . if in propria persona, the name,
27 address, and telephone number of the party
28 . . . shall appear in the upper left-hand
corner of the first page of each document
presented for filing.

Therefore, in compliance with these Rules, the
Confidential Settlement Conference Statement of Pro Se Plaintiff
must contain her name, address, as well as a telephone number, in
the upper left-hand corner of the first page.

1 **7. Admonition**

2 If there is no settlement authority from either party
3 and/or it is the hope of either party that this Court assess
4 strengths and weaknesses of each parties' cases such that this
5 Court will hopefully convince a party to dismiss the lawsuit,
6 **THIS IS NOT SETTLEMENT.** In such a situation, the parties are
7 directed to coordinate a telephonic conference call with this
8 Court, through staff at (559) 499-5690, prior to the Settlement
9 Conference, to discuss the status of settlement. **Failure to do**
10 **so could result in sanctions against any or all parties if**
11 **appearances are made and it was known to one or more parties that**
12 **the case cannot settle.**

13
14 IT IS SO ORDERED.

15
16 Dated: October 27, 2011

/s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE