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**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

KATHLEEN BURGHARDT-COBB,  
Plaintiff,

v.

MARK S. INCH,  
Defendant.

Case No. 1:17-cv-01563-DAD-SKO

ORDER SETTING SETTLEMENT  
CONFERENCE AND PRETRIAL  
CONFERENCE

The Court held a telephonic conference on April 27, 2021. Kevin Little, Esq., appeared on behalf of Plaintiff. Benjamin Hall, Esq., appeared behalf of Defendant. As discussed with the parties, the Court hereby **SETS a Settlement Conference for June 24, 2021, at 10:00 A.M. before Magistrate Judge Sheila K. Oberto.**

The Court further **SETS the Pretrial Conference for August 9, 2021 at 1:30 p.m. before District Judge Dale A. Drozd.**

Consideration of settlement is a serious matter that requires thorough preparation prior to the settlement conference. Accordingly, IT IS HEREBY ORDERED that:

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

As discussed with the parties during the telephonic pre-settlement conference, a settlement conference is more likely to be productive if, before the conference, the parties exchange written settlement proposals. Accordingly, at least **5 weeks** prior to the settlement conference, counsel for plaintiff shall submit an updated written itemization of damages and settlement demand to defense counsel with a brief summary of the legal and factual basis supporting the demand. No later than

1 **4 weeks** prior to the settlement conference, defense counsel shall submit a written offer to counsel  
2 for plaintiff with a brief summary of the legal and factual basis supporting the offer.

3 The parties **shall** continue to meet and confer thereafter to attempt to compromise  
4 regarding their respective positions, so as to assist with ensuring that the settlement conference  
5 will be productive.

6 **2. Submission and Content of Confidential Settlement Conference Statements**

7 The parties are to send Confidential Settlement Conference Statements (Settlement  
8 Statement) to the following email address: [SKOorders@caed.uscourts.gov](mailto:SKOorders@caed.uscourts.gov), to arrive no later than  
9 **fourteen (14) days** before the conference. Each statement shall be clearly marked  
10 "CONFIDENTIAL" with the date and time of the mandatory settlement conference indicated  
11 prominently. Each party shall also file a Notice of Submission of Confidential Settlement  
12 Conference Statement (*See* L.R. 270 (d)).

13 If the Settlement Conference is continued for any reason, each party must submit a new  
14 Settlement Statement that is complete in itself, without reference to any prior Settlement  
15 Statements.

16 Each Settlement Statement *shall include the following*:

- 17 a. A brief summary of the core facts, allegations, and defenses, a forthright  
18 evaluation of the parties' likelihood of prevailing on the claims and  
19 defenses, and a description of the major issues in dispute.
- 20 b. A summary of the proceedings to date.
- 21 c. An estimate of the cost and time to be expended for further discovery,  
22 pretrial, and trial.
- 23 d. The nature of the relief sought.
- 24 e. An outline of past settlement efforts including information regarding the  
25 "Pre-settlement Conference Exchange of Demand and Offer" required  
26 above—including the itemization of damages—and a history of past  
27 settlement discussions, offers, and demands.  
28

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

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

4 *The attorneys who will try the case and parties with full and complete settlement authority*  
5 *are required to personally attend the conference.*<sup>1</sup> An insured party shall appear by a  
6 representative of the insurer who is authorized to negotiate, and who has *full authority to negotiate*  
7 *and settle the case.* An uninsured corporate party shall appear by a representative authorized to  
8 negotiate, and who has *full authority to negotiate and settle the case.* It is difficult for a party who  
9 is not present to appreciate the process and the reasons that may justify a change in one's  
10 perspective toward settlement. Accordingly, having a client with authority available by telephone  
11 is *not* an acceptable alternative, except under the most extenuating circumstances.<sup>2</sup>

12 In light of the coronavirus (COVID-19) outbreak and the resulting courthouse restrictions,  
13 *see* General Orders Nos. 612–618, the Court will revisit the in-person requirement closer to the  
14 date of the settlement conference and reserves the right to modify the requirement depending upon  
15 the courthouse restrictions, if any, in place as of June 24, 2021. The parties are advised that while  
16 the courthouse restrictions pursuant to General Order No. 618 are in place, Zoom videoconference  
17 settlement conferences are available. At the June 15, 2021, Pre-Settlement Conference, (*see*  
18 paragraph 6 below), the parties should be prepared to discuss the method of conducting the  
19 settlement conference and whether the settlement conference should proceed on June 24, 2021. If  
20 the parties opt to conduct the settlement conference by Zoom videoconference, the Court will  
21 provide the call-in information closer to the time of the settlement conference.

22 The Court expects both the lawyers and the party representatives to be fully prepared to  
23 participate. The Court encourages all parties to keep an open mind in order to reassess their  
24 previous positions and to discover creative means for resolving the dispute.

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27 <sup>1</sup> Insurance carriers, business organizations, and governmental bodies or agencies whose settlement agreements are  
28 subject to approval by legislative bodies, executive committees, boards of directors or the like 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.

<sup>2</sup> Out of town or out of state travel and the purchase of an airplane ticket are not extenuating circumstances.

