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

VERTICAL TANK, INC.,  
  
                    Plaintiff,  
  
                    v.  
  
BAKERCORP,  
  
                    Defendant.

Case No.: 1:18-cv-00145 LJO LJT  
  
ORDER GRANTING JOINT REQUEST FOR A  
SETTLEMENT CONFERENCE  
(Doc. 52)

At the request of the parties, the Court sets a settlement conference on **September 11, 2019<sup>1</sup>** at 1:30 p.m., located at 510 19<sup>th</sup> Street, Bakersfield, California.

Unless otherwise permitted in advance by the Court, **the attorneys who will try the case shall appear** at the Settlement Conference **with the parties** and the person or persons having **full authority** to negotiate and settle the case **on any reasonable terms<sup>2</sup>** discussed at the conference. Consideration of settlement is a serious matter that requires preparation prior to the settlement conference. Set forth below are the procedures the Court will employ, absent good cause, in conducting the conference.

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<sup>1</sup> The Court could conduct the settlement conference on September 4, 2019, the parties preferred date, but because the bankruptcy court will be in session on that day, it would lack the ability to place any settlement on the record. If the parties understand this and still wish to have the settlement conference moved to September 4, 2019, they may submit a joint request for this to occur.

<sup>2</sup> Insurance carriers, business organizations, and governmental bodies or agencies whose settlement agreements are subject to approval by legislative bodies, executive committees, boards of directors or the like may be represented by a person whose recommendations about settlement are relied upon by the ultimate decision makers.

1           **At least 21 days before** the settlement conference, the plaintiff **SHALL** submit to the  
2 defendant via fax or e-mail, a written itemization of damages and a meaningful<sup>3</sup> settlement demand  
3 which includes a brief explanation of why such a settlement is appropriate. Thereafter, **no later than**  
4 **14 days before** the settlement conference, the defendant **SHALL** respond via fax or e-mail, with an  
5 acceptance of the offer or with a meaningful counteroffer, which includes a brief explanation of why  
6 such a settlement is appropriate. They **SHALL** continue to exchange offers in advance of the  
7 settlement conference if doing so is productive.

8           If settlement is not achieved, each party **SHALL** attach copies of their settlement offers to  
9 their Confidential Settlement Conference Statement, as described below. Copies of these documents  
10 shall not be filed on the court docket.

#### 11                                   **CONFIDENTIAL SETTLEMENT CONFERENCE STATEMENT**

12           **At least five a week before** the settlement conference, the parties shall submit, directly to  
13 Judge Thurston's chambers by e-mail to JLTOrders@caed.uscourts.gov, a Confidential Settlement  
14 Conference Statement. The statement **should not be filed** with the Clerk of the Court **nor served on**  
15 **any other party**, although the parties may file a Notice of Lodging of Settlement Conference  
16 Statement. Each statement shall be clearly marked "confidential" with the date and time of the  
17 Settlement Conference indicated prominently thereon.

18           The Confidential Settlement Conference Statement shall include the following:

- 19           A.     A brief statement of the facts of the case.
- 20           B.     A brief statement of the claims and defenses, i.e., statutory or other grounds upon  
21                 which the claims are founded; a forthright evaluation of the parties' likelihood of  
22                 prevailing on the claims and defenses; and a description of the major issues in dispute.
- 23           C.     A summary of the proceedings to date.
- 24           D.     An estimate of the cost and time to be expended for further discovery, pretrial and  
25 trial.
- 26           E.     The relief sought.

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28           <sup>3</sup> "Meaningful" means the offer is reasonably calculated to settle the case on terms acceptable to the offering party. "Meaningful" does not include an offer which the offering party knows will not be acceptable to the other party. If, however, the offering party is only willing to offer a settlement which it knows the other party will not accept, this should trigger a recognition the case is not in a settlement posture and the parties should confer about continuing the settlement conference via stipulation.

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F. The party's position on settlement, including present demands and offers and a history of past settlement discussions, offers and demands.

IT IS SO ORDERED.

Dated: August 9, 2019

/s/ Jennifer L. Thurston  
UNITED STATES MAGISTRATE JUDGE