

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  
SOUTHERN DISTRICT OF CALIFORNIA

JOANNE CORNWELL d/b/a	)	Case No. 04cv0658-H (BLM)
Sisterlocks,	)	
	)	<b>ORDER SETTING MANDATORY</b>
Plaintiff,	)	<b>SETTLEMENT CONFERENCE</b>
v.	)	
	)	
DEBRA BELTON and NAPPYLOCS.COM,	)	
	)	
Defendants.	)	
	)	
	)	

By order dated September 10, 2007, the District Judge instructed the parties to contact this Court to schedule a settlement conference for purposes of addressing Plaintiff's motion for attorneys' fees. Doc. No. 128. Plaintiff's counsel recently did so and provided this Court with both parties' availability.

Accordingly, a Mandatory Settlement Conference shall be conducted on September 21, 2007 at 9:30 a.m. in the chambers of Magistrate Judge Barbara L. Major located at 940 Front Street, Suite 5140, San Diego, CA 92101. All discussions at the Mandatory Settlement Conference will be informal, off the record, privileged, and confidential. Defendant may appear by phone by contacting Chambers at (619) 557-7372.

///

1 a. **Personal Appearance of Parties Required:** All parties,  
2 adjusters for insured defendants, and other representatives of a party  
3 having full and complete authority to enter into a binding settlement,  
4 as well as the principal attorneys responsible for the litigation, must  
5 be present **in person** and legally and factually prepared to discuss  
6 settlement of the case. Counsel appearing without their clients  
7 (whether or not counsel has been given settlement authority) will be  
8 cause for immediate imposition of sanctions and may also result in the  
9 immediate termination of the conference.

10 Unless there are extraordinary circumstances, persons required to  
11 attend the conference pursuant to this Order shall not be excused from  
12 personal attendance. **Requests for excuse from attendance for**  
13 **extraordinary circumstances shall be made in writing at least three (3)**  
14 **court days prior to the conference.** Failure to appear **in person** at the  
15 Mandatory Settlement Conference will be grounds for sanctions.

16 b. **Full Settlement Authority Required:** In addition to  
17 counsel who will try the case, a party or party representative with full  
18 settlement authority<sup>1</sup> must be present for the conference. In the case  
19 of a corporate entity, an authorized representative of the corporation  
20 who is not retained outside counsel must be present and must have

21 \_\_\_\_\_  
22 <sup>1</sup> "Full settlement authority" means that the individuals at the settlement  
23 conference must be authorized to explore settlement options fully and to agree at that  
24 time to any settlement terms acceptable to the parties. Heileman Brewing Co. v. Joseph  
25 Oat Corp., 871 F.2d 648, 653 (7th Cir. 1989). The person needs to have "unfettered  
26 discretion and authority" to change the settlement position of a party. Pitman v.  
27 Brinker Int'l, Inc., 216 F.R.D. 481, 485-86 (D. Ariz. 2003). The purpose of requiring  
28 a person with unlimited settlement authority to attend the conference contemplates that  
the person's view of the case may be altered during the face to face conference. Id.  
at 486. A limited or a sum certain of authority is not adequate. See Nick v. Morgan's  
Foods, Inc., 270 F.3d 590, 595-97 (8th Cir. 2001).

1 discretionary authority to commit the company to pay an amount up to the  
2 amount of the Plaintiff's prayer (excluding punitive damages prayers).  
3 The purpose of this requirement is to have representatives present who  
4 can settle the case during the course of the conference without  
5 consulting a superior. Counsel for a government entity may be excused  
6 from this requirement so long as the government attorney who attends the  
7 Mandatory Settlement Conference (1) has primary responsibility for  
8 handling the case, and (2) may negotiate settlement offers which the  
9 attorney is willing to recommend to the government official having  
10 ultimate settlement authority.

11 c. **Confidential Settlement Statements Required:** No later  
12 than **September 19, 2007**, the parties shall submit directly to Magistrate  
13 Judge Major's chambers confidential settlement statements no more than  
14 five (5) pages in length. **These confidential statements shall not be**  
15 **filed or served on opposing counsel.** Each party's confidential  
16 statement must include the following:

17 (i) A brief description of the case, the claims and/or  
18 counterclaims asserted, and the applicable defenses or position  
19 regarding the asserted claims;

20 (ii) A specific and current demand or offer for  
21 settlement addressing all relief or remedies sought. If a specific  
22 demand or offer for settlement cannot be made at the time the brief is  
23 submitted, then the reasons therefore must be stated along with a  
24 statement as to when the party will be in a position to state a demand  
25 or make an offer; and

26 (iii) A brief description of any previous settlement  
27 negotiations, mediation sessions, or mediation efforts.

28 General statements that a party will "negotiate in good faith" is

1 not a specific demand or offer contemplated by this Order. It is  
2 assumed that all parties will negotiate in good faith.

3 d. Requests to Continue a Mandatory Settlement Conference:

4 Any request to continue the Mandatory Settlement Conference or request  
5 for relief from any of the provisions or requirements of this Order must  
6 be sought by a written ex parte application. The application must (1)  
7 be supported by a declaration of counsel setting forth the reasons and  
8 justifications for the relief requested, (2) confirm compliance with  
9 Civil Local Rule 26.1, and (3) report the position of opposing counsel  
10 or any unrepresented parties subject to the Order.

11 If the case is settled in its entirety before the scheduled date of  
12 the conference, counsel and any unrepresented parties must still appear  
13 in person, unless a written joint motion confirming the complete  
14 settlement of the case is submitted no fewer than twenty-four (24) hours  
15 before the scheduled conference.

16 IT IS SO ORDERED.

17 DATED: September 13, 2007

18 

19 BARBARA L. MAJOR  
20 United States Magistrate Judge

21  
22  
23 COPY TO:

24 HONORABLE MARILYN L. HUFF  
25 U.S. DISTRICT JUDGE

26 ALL COUNSEL  
27  
28