

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

CITY OF OMAHA, a municipal)
corporation,)
)
Plaintiff,)

Case No. 8:10cv325

vs.)

R & B Excavating, INC., a Nebraska)
corporation; UNITED FIRE AND)
CASUALTY COMPANY, an Iowa)
corporation; PINNACLE BANK,)
a Nebraska banking corporation;)
and JOHN MAIN,)
)
Defendants.)

PINNACLE BANK, a Nebraska)
banking corporation,)
)
Third-Party Plaintiff,)

ORDER SETTING
SETTLEMENT CONFERENCE

vs.)

R & B EXCAVATING, INC., a)
Nebraska corporation; UNITED)
FIRE AND CASUALTY COMPANY,)
an Iowa corporation; JOHN MAIN,)
and RUSSELL THILLE,)
)
Third-Party Defendants.)

Following a discussion with counsel by telephone conference call on September 29, 2011,

IT IS ORDERED:

1. A settlement conference shall be held before the undersigned, with counsel and representatives on **Thursday, October 13, 2011 at 10:00 A.M.**, in Courtroom 6, Second

Floor, Roman L. Hruska United States Courthouse, 111 South 18th Plaza, Omaha, Nebraska. The parties' representatives and/or counsel shall be prepared to participate and negotiate a settlement of this case during the conference in accordance with the following paragraphs.

2. If trial counsel has been fully authorized to commit the client to pay or to accept in settlement the amount last proposed by the opponent, in counsel's sole discretion, the client, client representative, or insurance company representative, as applicable, need not attend. The purpose of this requirement is to have representatives present who can settle the case during the course of the settlement conference.

3. A settlement conference statement of each party shall be submitted directly to the undersigned on or before **October 11, 2011**, setting forth the relevant positions of the parties concerning factual issues, issues of law, damages, and the settlement negotiation history of the case, including a recitation of any specific demands and offers that may have been conveyed. Copies of such settlement conference statements are to be promptly transmitted to all counsel of record. The settlement conference statement may not exceed five (5) pages in length and will not be made a part of the case file.

4. Neither the settlement conference statements nor communications of any kind occurring during the settlement conference shall be used by any party with regard to any aspect of the litigation or trial of the case.

5. **Format of the Settlement Conference:** The conference will begin in the courtroom where the court will determine that the representatives in attendance have the authority required in paragraph 2 above. The stipulation set forth in paragraph 4 above will be entered on the record. Counsel will then deliver "argumentative opening statements" (not on the record), and the court will make brief remarks. The conference will then continue in chambers.

DATED this 29th day of September 2011.

BY THE COURT:

**s/ F.A. Gossett, III
United States Magistrate Judge**