

## **Mediation Proceedings**

### **A. Preliminary Telephone Conference**

When a matter is referred to Judge Taylor for settlement, she will normally hold a preliminary telephone conference with counsel. At the time of that telephone conference, counsel will be expected to discuss the status of settlement discussions and schedule an in-person settlement conference.

### **B. Demands and Offers**

Plaintiff (and defendant to any affirmative claim) will set out a written good faith demand no later than three (3) weeks before the settlement conference. The defendant (or the other responding party) must respond to that demand in writing, no later than two (2) weeks before the settlement conference. There will be no exceptions.

### **C. Settlement Conference Statement**

Counsel will submit a brief confidential written statement no later than one week before the scheduled settlement conference. The Settlement Conference Statement will not exceed seven (7) pages, excluding attachments, and will not be filed with the Clerk's Office. Statements must be emailed to the Courtroom Deputy assigned to Judge Taylor at **Mike\_Banas@pawd.uscourts.gov**.

Statements will include:

- a) Names of counsel and client(s) attending the in-person settlement conference.
- b) Brief narrative statement of the case.
- c) Party's factual and legal strengths and weaknesses, including a brief summary of the evidence tending to strengthen or weaken the case.
- d) Cases, laws, statutes, or regulations implicated by the cause(s) of action and/or defense(s).
- e) Lay and Expert Witnesses
  1. List of witnesses who have been deposed.
  2. List of witnesses who will be called to testify at trial and a brief explanation of how that testimony will support your claim(s) and/or defense(s).
- f) Claims disposed of *via* dispositive motions.
- g) Status of negotiations, including the demand(s) and offer(s), and demand/offer dates.

### **D. Parties Attendance and Participation**

The parties (or the parties' representatives with knowledge of the case and settlement authority) must attend the settlement conference in-person. *In exceptional circumstances only*, Judge Taylor will permit the person with settlement authority to participate in the conference by video/telephone. Counsel seeking relief must contact chambers as soon as they are aware of a problem with attendance.

At the settlement conference, Judge Taylor will expect counsel to:

- a) Present a brief opening statement, no longer than 5-7 minutes.
- b) Be prepared to discuss the weaknesses, as well as the strengths, of their case.
- c) Have prepared the client in advance that Judge Taylor will speak with them directly.
- d) Have organized and have brought critical documents for Judge Taylor's review.
- e) Have attached *relevant* summary expert reports to the Settlement Conference Statement for Judge Taylor's review.
- f) Have brought *relevant* photographs, sketches, diagrams, and charts for Judge Taylor's review.
- g) Be patient, open and flexible. Settlement is a process. It takes time.
- h) Be creative – avoid bottom lines or top numbers.
- i) Manage their client's expectations.
- j) Manage their own expectations.

### **E. Follow-up Contact**

Judge Taylor will, if appropriate and if the matter remains unresolved, continue to work with counsel after the settlement conference.

### **F. Continuances**

Settlement conferences are scheduled by order of the Court and are mandatory. Counsel and participants should make all efforts to attend. Due to the large number of cases scheduled for settlement conferences, rescheduling the settlement conference could cause a significant delay. Thus, any continuance requests should be made within fourteen (14) days of receipt of the notice scheduling the conference. Continuance requests will be granted only for the most compelling reasons.

### **G. Confidentiality**

As a reminder, the settlement conference is confidential, and nothing discussed at the settlement conference is admissible. *See* Federal Rule of Evidence 408.