



## **MAGISTRATE JUDGE MARY K. DIMKE**

**William O. Douglas Federal Building  
25 South Third Street  
Yakima, WA 98901**

**Mailing: P. O. Box 2706  
Yakima, WA 98901**

**Courtroom 102  
Chambers Room 100  
[DimkeOrders@waed.uscourts.gov](mailto:DimkeOrders@waed.uscourts.gov)**

**Telephone: (509) 573-6600  
Fax: (509) 573-6671**

### **STANDING ORDER RE: SETTLEMENT CONFERENCE**

The Court believes the parties should fully explore and consider settlement at the earliest opportunity. Early consideration of settlement can prevent unnecessary litigation. This allows the parties to avoid the substantial cost, expenditure of time, and stress that are typically a part of the litigation process. Even for those cases that cannot be resolved through settlement, early consideration of settlement can allow the parties to better understand the factual and legal nature of their dispute and streamline the issues to be litigated. This Standing Order supersedes L.R. 16.2 to the extent they are inconsistent with each other.

Consideration of settlement is a serious matter that requires thorough preparation prior to the settlement conference. Set forth below are the procedures the Court will require the parties to follow and the procedures the Court typically will employ in conducting the conference.

#### **A. FORMAT**

##### **1. PRESETTLEMENT CONFERENCE EXCHANGE OF DEMAND AND OFFER.**

A settlement conference is more likely to be productive if, before the conference, the parties exchange written settlement proposals. Accordingly, at least twenty (20) days prior to the settlement conference, plaintiff's counsel shall submit a written itemization of damages and settlement demand to defendant's counsel with a brief explanation of why such a settlement is appropriate. No later than

ten (10) days prior to the settlement conference, defendant's counsel shall submit a written offer to plaintiff's counsel with a brief explanation of why such a settlement is appropriate. On occasion, this process will lead directly to a settlement. If settlement is not achieved, plaintiff's counsel shall email copies of all letters to Judge Dimke's chambers ([DimkeOrders@waed.uscourts.gov](mailto:DimkeOrders@waed.uscourts.gov)) no later than five (5) business days before the conference. Do not file copies of these letters on the court docket. In addition, the parties may expect ex parte contact from Judge Dimke in advance of the settlement conference if she has questions or concerns about issues in the case.

## **2. SUBMISSION OF SETTLEMENT LETTER.**

In preparation for the settlement conference, each party shall submit an *in camera* letter, labeled confidential, at least ten (10) days prior to the settlement conference. Do not file copies of these letters on the court docket and do not serve these letters on the opposing party. The *in camera* letters shall not exceed ten (10) pages in length and shall set forth the following:

- Name and title of the client who will be present throughout the conference and will be authorized to enter into a settlement agreement, and the names and titles of any other persons who will attend the conference;
- A brief analysis of key issues involved in the litigation;
- A description of the strongest and weakest points in the party's case, both legal and factual (the parties are invited to include as attachments copies of key depositions or exhibits);
- A description of the strongest and weakest points in the opponent's case, both legal and factual;
- Itemization of damages, fees, and costs;
- Status of any settlement negotiations, including the last settlement proposal made by the party and opposing parties;
- Settlement proposal the party believes to be fair; and
- Settlement proposal the party is willing to accept to conclude the matter and stop the expense of litigation.

Failure to submit an *in camera* letter may result in cancellation or rescheduling of the settlement conference. All communications made in connection with the settlement conference are confidential and will not be disclosed. Any documents requested and submitted for the settlement conference will be maintained in chambers and will be destroyed after the conference. Neither the settlement conference statements nor any communication occurring during the settlement conference can be used by any party with regard to any aspect of the litigation or trial of this case. *In camera* copies may be emailed to [DimkeOrders@waed.uscourts.gov](mailto:DimkeOrders@waed.uscourts.gov).

## **3. ATTENDANCE OF PARTIES REQUIRED.**

**Parties with full and complete settlement authority are required to personally attend the conference.** An insured party shall appear by a representative of the insurer who is authorized to negotiate, and who has *authority to settle the matter up to the limits of the opposing parties' existing settlement demand*. An uninsured corporate party shall appear by a representative authorized to negotiate, and who has *authority to settle the matter up to the amount of the opposing parties' existing settlement demand or offer*. Having a client with authority available by telephone is *not* an acceptable alternative, except under the most extenuating circumstances. Because the Court generally sets

aside at least four hours for each conference, it is impossible for a party who is not present to appreciate the process and the reasons which may justify a change in one's perspective towards settlement.

#### **4. MEDIATION FORMAT.**

The Court will generally use a mediation format: that is, a joint session with opening presentations by the Court and each side followed by private caucusing by the Court with each side. The Court expects both the lawyers and the party representatives to be fully prepared to participate. The Court encourages all parties to keep an open mind in order to reassess their previous positions and to consider creative means for resolving the dispute.

#### **5. STATEMENTS INADMISSIBLE.**

The Court expects the parties to address each other with courtesy and respect. Parties are encouraged to be frank and open in their discussions. As a result, statements made by any party during the settlement conference are not to be used in discovery and will not be admissible at trial.

### **B. ISSUES TO BE DISCUSSED**

Parties should be prepared to discuss the following at the settlement conference:

1. What are your goals in the litigation and what problems would you like to address in the settlement conference? What do you understand are the opposing side's goals?
2. What issues (in and outside of this lawsuit) need to be resolved? What are the strengths and weaknesses of your case?
3. Do you understand the opposing side's view of the case? What is wrong with their perception? What is right with their perception?
4. What are the points of agreement and disagreement between the parties? Factual? Legal?
5. What are the impediments to settlement? Financial? Emotional? Legal?
6. Does settlement or further litigation better enable you to accomplish your goals?
7. Are there possibilities for a creative resolution of the dispute?
8. Do you have adequate information to discuss settlement? If not, how will you obtain sufficient information to make a meaningful settlement discussion possible?
9. Are there outstanding lien holders or third parties who should be invited to participate in the settlement conference?

### **C. INVOLVEMENT OF CLIENTS**

Parties and their lead counsel are **ORDERED TO APPEAR** on the date and time set for the settlement conference. For many clients, this will be the first time they will participate in a court-supervised settlement conference. Therefore, prior to the settlement conference, counsel shall provide a copy of this Standing Order to the client and shall discuss the points contained herein with the client.

### **D. PREPARE FOR SUCCESS**

In anticipation of a settlement, the parties should bring with them to the settlement conference a “Settlement Agreement” in a form acceptable to them for signature by all parties when a settlement is reached.

**ENTER:**

*s/Mary K. Dimke*

**MARY K. DIMKE**

**United States Magistrate Judge**