

## **CHAPTER 2**

### **SETTLEMENT CONFERENCE**

#### **Rule 2.2.1**

##### **Requesting a Settlement Conference**

Settlement conferences may be requested if the parties certify that:

**A.** Settlement negotiations between the parties have been pursued, demands and offers have been tendered, and resolution has failed. If the court has ordered the parties to participate in a settlement conference, all parties must exchange demands and offers, and communicate responses thereto. This must be done in good faith and within a reasonable time to allow the opposing party to consider and respond to the offer or demand, but in no event will the first offer or demand be sent any later than five days before the settlement conference;

**B.** A judicially supervised settlement conference presents a substantial opportunity for settlement; and

**C.** The case has developed to a point where all parties are legally and factually prepared to present the issues for settlement consideration and further discovery for settlement purposes is not required.

When a matter has been accepted by the court for the purposes of conducting a settlement conference, all parties must comply with the provisions of rules 2.2.2, 2.2.3, and 2.2.4 unless otherwise ordered.

(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001; Renum. 1/1/2006)

#### **Rule 2.2.2**

##### **Mandatory Appearance**

The provisions of rules 2.2.2, 2.2.3, and 2.2.4 apply to all court-ordered settlement conferences unless otherwise ordered. All parties must be personally present. Claims adjusters for insured defendants, or right-of-way agents in condemnation proceedings, must be present with complete authority to settle the case.

Counsel appearing on behalf of their clients must be completely familiar with the case and possess complete authority to negotiate and settle. Counsel must have authority to make a specific demand and must be authorized to make an offer or counteroffer in a specific amount. If a participant is not fully prepared or fails to participate in good faith, the court may continue the hearing and/or impose sanctions against the offending party. If the hearing proceeds as scheduled, the orders made will not be subject to reconsideration due to counsel's unfamiliarity with the case at the time of the hearing.

For good cause shown, a party or agent may be excused from attendance at such conferences provided such party or agent will be available by telephone during the conference. Unless excused by the court, such requests must be submitted to the court in the form of a stipulation signed by all attorneys of record, or by ex parte appearance at least five court days prior to the settlement conference.

If the settlement conference is to be heard by a temporary judge, such stipulations and settlement conference briefs must be submitted to the court and ex parte requests must be made to the independent calendar department to which the case is assigned.

(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001; Rev. 1/1/2005; Renum. 1/1/2006)

#### **Rule 2.2.3**

##### **Settlement Statements/Briefs**

Written statements of the position of each party must be lodged with the settlement conference judge and served on other parties five court days prior to the settlement conference, unless otherwise ordered. If service is by mail, all papers must be mailed not less than ten days before the court date. Settlement conference statements do not become a part of the file and will be discarded. Confidential matters may be brought to the attention of the settlement judge during the settlement conference either orally or in writing.

Statements must not exceed five pages and must include the necessary information to concisely support issues of liability and damages, including a settlement demand and offer, as well as an itemization of special and general damages, if applicable. Mandatory settlement conferences are governed by the California Rules of Court.

(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001; Rev. 1/1/2005; Renum. 1/1/2006)

#### **Rule 2.2.4**

##### **Notifications of Settlement or Continuances**

**A. Settlement.** In accordance with the California Rules of Court, if a case is settled, the plaintiff must immediately give the court written notice. The plaintiff must also immediately notify the court by phone or in person if a hearing, conference, or trial date is imminent. The only time a hearing set by the court may be taken off calendar is when the plaintiff advises the court that the case has been settled. In that event, a show cause hearing regarding dismissal will be conducted in 45 days. The show cause hearing will be taken off calendar if a dismissal of all complaints and cross-complaints, or a judgment as to all complaints and cross-complaints, is filed with the court no later than five court days prior to the hearing. If such documentation has not been received by the date set for the show cause hearing, the court will immediately order appropriate sanctions and/or dismiss the entire action.

Failure to advise the court at least five court days before the settlement conference that it will not proceed as scheduled, for any reason other than the settlement of the case in its entirety within the five court day period, may be deemed by the court to be a violation of an order of the court, punishable by monetary sanctions payable to the county under Code of Civil Procedure section 177.5, as well as any other sanction provided by law. In addition to monetary sanctions, any party or attorney who fails to attend a settlement conference risks having their complaint dismissed or their answer stricken and default entered.

**B. Continuances.** Any party requesting a continuance must appear ex parte and show good cause why the settlement conference should be continued. At the ex parte hearing, a stipulation may be presented to the court, signed by all parties, accompanied by a declaration showing good cause.

(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001; Rev. 1/1/2003; Rev. 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2010)