

## **CHAPTER 2 SETTLEMENT CONFERENCE**

### **Rule 2.2.1**

#### **Voluntary Settlement Conferences**

Settlement conferences may be requested if the parties represent that:

- A.** Settlement negotiations between the parties have been pursued, demands and offers have been exchanged, and resolution has failed.
- 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.

If a request for a voluntary settlement conference has been accepted by the court and a settlement conference has been scheduled, 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; Rev. 1/1/2012; Rev. 1/1/2013)

### **Rule 2.2.2**

#### **Mandatory Appearance**

**A.** The provisions of rules 2.2.2, 2.2.3, and 2.2.4 apply to both voluntary and mandatory settlement conferences unless otherwise ordered.

**B.** All parties, attorneys of record, and others whose authority is required to fully settle the case (including but not limited to insurance adjusters and right-of-way agents) must attend the settlement conference in person unless excused or permitted to attend by telephone as provided in section D below. If a party is not a natural person, a representative of that party with authority to resolve the dispute or, in the case of a governmental entity that requires an agreement to be approved by an elected official or a legislative body, a representative with authority to recommend such agreement, must attend the settlement conference in person, unless excused or permitted to attend by telephone as provided below.

**C.** If any party is insured under a policy of insurance that provides or may provide coverage for a claim that is a subject of this action, a representative of the insurer with authority to settle or recommend settlement of the claim must attend the settlement conference in person, unless excused or permitted to attend by telephone as provided in section D below. The party must notify each insurance carrier of the date, time and place of the settlement conference and of the carrier's duty to attend with full settlement authority.

**D.** A party or participant may submit to the court a written request to be excused from personal attendance at a settlement conference provided that the party or participant will be available by telephone for the duration of the settlement conference. Such requests must be served on all parties at least five court days prior to the settlement conference. If the settlement conference is to be heard by a temporary judge, such requests must be submitted to the independent calendar department to which the case is assigned.

**E.** If a party is excused from personal attendance at the settlement conference, counsel appearing on behalf of the party must be completely familiar with the case and must have authority to make an initial demand or counteroffer in a specific amount.

**F.** If a party or participant fails to appear, 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 or counsel. If the settlement conference 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.

(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001; Rev. 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2013)

### **Rule 2.2.3**

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

In all cases except unlawful detainer proceedings in which a party is represented by counsel under the Sargent Shriver Civil Counsel Act, 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 10 days before the court date. Settlement conference statements do not become a part of the file and will be discarded. If the settlement conference is to be heard by a temporary judge, settlement conference statements must be submitted to the independent calendar department to which the case is assigned. In cases in which a party is represented by counsel under the Sargent Shriver Civil Counsel Act, the parties may provide their positions orally on the date of the settlement conference.

Unless otherwise instructed by the court, settlement conference 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, and the last offer.

(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001; Rev. 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2012; Rev. 1/1/2013; Rev. 1/1/2016)

### **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 court 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; Rev. 1/1/2012)