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4 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
5 AT TACOMA

6 [Plaintiff]

7 Plaintiff,

8 v.

9 [Defendant]

10 Defendants.

Case No. C

ORDER RE: SETTLEMENT
CONFERENCE WITH UNITED
STATES MAGISTRATE JUDGE

11
12 Counterclaimant

13 v.

14 Counter-Defendant
15

16 This matter comes before the Court on the parties' [joint motion] [request] for settlement
17 conference under LCR 39.1(e) to occur before [insert date] with a United States Magistrate
18 Judge, Dk. __, and the Honorable _____'s decision to grant the parties' [motion] [request],
19 referring this case to the undersigned for settlement purposes. Dkt. ____.

20
21 Accordingly, Court orders as follows:

22 **The parties are directed to appear for a Settlement Conference to be held at the**
23 **[insert location]. The Conference will start at 9:00 AM on [insert date] , 2018. The [insert**
24
25

1 **location] is located at [insert address]. The required settlement memoranda, more fully**
2 **described below, are due no later than midnight on [insert date] , 2018.**

3 Persons with ultimate settlement authority must be personally present or readily available
4 by phone.

5 Participation of parties – in person -- is likely to increase the efficiency and effectiveness
6 of the settlement conference. **Any party who resides or has a business address within 100**
7 **miles of the courthouse shall attend the conference in person with counsel.** A request to be
8 exempt from this requirement should be submitted to the Court in writing no later than one week
9 prior to the conference. Please address any request to [insert name], Judicial Law Clerk to
10 Magistrate Judge Fricke, at: [insert email]. The email subject line should include your case
11 number and “Request for non-appearance of a party.”

12 Parties not appearing in person shall be available by phone and email (including the
13 ability to review documents and sign) for the duration of the settlement conference.

14 Any counsel appearing without authority to negotiate, or without the ability to readily
15 contact the person with full and ultimate settlement authority throughout the settlement
16 conference, may be sanctioned.

17 Other people who may increase the probability of settling the case should be present, if
18 possible. For example, the attendance of an expert may be helpful. Counsel assisting the client on
19 related matters may need to be involved. At the very least, contact information should be
20 available for them at the conference.

21 At least ten days prior to the conference (on or before [insert date]), the plaintiff is to
22 have made a settlement demand. No later than one week prior to the conference [insert date], the
23 defendant is to have responded to that demand. Even if the conference is set less than ten days
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1 out from this notice, the plaintiff must still make a settlement demand and the defendant must
2 still respond prior to the conference.

3 In addition, at least one week prior to the conference, counsel should circulate updated expert
4 reports, etc., if such reports will assist with the negotiations and settlement decision. Because
5 defense counsel are likely reporting to clients, adjusters, and risk managers who need time to
6 review and evaluate, exchanging such information several days before the settlement conference
7 will help ensure defense counsel arrives with enough authority to settle the matter.

8 Defense counsel should allow enough time to speak to their decision makers about the
9 information and authority, and are expected to provide any new documentation to plaintiff's
10 counsel at least one week before the settlement conference. If the client/adjuster will not be
11 present, please obtain all office and cell phone numbers you may need to contact that person
12 during the conference.

13 Each party shall provide, **in confidence**, a concise settlement memorandum **no longer than**
14 **ten double spaced pages and which should not include attachments or exhibits unless under**
15 **extraordinary circumstances**. Please do not file these confidential memoranda with the Clerk's
16 Office or serve the memoranda on opposing counsel. Each party's confidential memorandum
17 shall include a brief description of:

- 18 1. any liability disputes;
- 19 2. facts you believe you can prove at trial;
- 20 3. the damages at issue in the case;
- 21 4. the major weaknesses in each side's case, both factual and legal;
- 22 5. the history of settlement negotiations thus far;
- 23 6. the party's settlement position;

- 1 7. the major obstacle(s) to settlement as you perceive it;
- 2 8. reference (by docket number) to any pending motions that would have a significant effect
- 3 on settlement for the Court to review prior to settlement;
- 4 9. special issues that may have a material bearing upon settlement discussions;

5 And

- 6 10. any person(s) (with a description of their position or role) you plan to bring to the
- 7 settlement conference.

8 In setting forth your settlement position, please do not limit your discussion to arguments on
9 the merits of your case. For the Court and parties to be successful in the limited time provided
10 for this settlement conference, you should provide the Court with a clear and candid
11 understanding of your and your client's actual evaluation of the interests, values, and monetary
12 aspects that your client is most concerned about in any potential settlement of this case and an
13 idea of terms under which you believe the case should settle.

14 The memorandum shall include the case number, case name, and should be emailed directly
15 to Magistrate Judge Fricke, at: [insert email]. The email subject line should read: "**Confidential**
16 **– [name of party] v. [name of party] - , 2018 - [Plaintiff's/Defendant's] Settlement Position**
17 **Paper.**" Do not mail hard copies of the settlement memorandum to chambers.

18 You may be contacted by the Court to answer questions, clarify issues, and discuss other
19 preliminary matters designed to ensure the conference itself is productive. Counsel may contact
20 the Court by sending an email to [insert] if counsel would request an appointment with
21 Magistrate Judge Fricke to address any matters they believe need to be discussed in advance,
22 including any request to bring exhibits, technology-assisted presentations, or conduct lengthy
23 opening statements.

1 It is the duty of the plaintiff(s) to notify the Court if trial is continued or if the case is settled
2 or otherwise disposed of prior to the date of the scheduled settlement conference, so that the
3 matter may be removed from the Court's docket.

4 In the days immediately preceding the settlement conference, if either party believes that
5 negotiation attempts would not be fruitful at the time set for the conference for any reason, that
6 party should contact the Court as soon as possible to discuss the concern. Counsel for the parties
7 are strongly encouraged to engage in preliminary discussions with an eye toward meaningfully
8 narrowing their disputes before appearing for the Conference.

9 The Court expects that each participant will be well-prepared, open-minded, and sincerely
10 interested in achieving a settlement. Each party should bring to the settlement conference an
11 electronic copy of a draft settlement agreement, containing options for proposed essential
12 elements of a settlement contract. To encourage open communication, the Court orders that all
13 matters communicated in connection with this judicial settlement are confidential and not to be
14 used for any other purpose.

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16 Dated this [insert] day of November, 2018.

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21 Theresa L. Fricke

22 United States Magistrate Judge
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