

## **Judge Fine's Settlement Conference Procedures**

This document outlines steps the parties will be required to take in connection with the upcoming settlement conference. It also provides an overview of Judge Fine's approach when facilitating settlement discussions.

- 1. Exchange of Settlement-Conference Letters.** Effective settlement conferences require preparation, and well-drafted settlement-conference letters play a key role in that preparation. Settlement-conference letters help parties make sober assessments of the strengths and weaknesses of their litigation positions. They also assist any mediator with his or her chief settlement-conference function: helping the *parties* to explore consensual resolutions of otherwise-intractable disputes.

Parties should address their settlement-conference letters to one another, and they should copy CRD\_Fine@ilnb.uscourts.gov when exchanged. The deadlines for this exchange will be set at the same time the conference is scheduled.

- 2. Content and Length of Settlement-Conference Letters.** The parties' letters should: (a) contain an overview of the evidence and legal principles likely to establish liability or prove a defense; (b) explain why damages or other relief would appropriately be granted or denied at trial; (c) (from the plaintiff:) itemize damages and identify the evidence and legal principles supporting those damages; (d) provide any additional information that would help facilitate settlement; and (e) set out a settlement proposal.

Settlement-conference letters should be no more than five (5) pages, excluding exhibits, unless the parties seek and obtain advance permission. Judge Fine may telephone counsel for the parties on an *ex parte* basis to discuss their letters in advance of the settlement conference.

- 3. In-Person Attendance Required.** Parties with full settlement authority are required to attend the settlement conference in person. If a party is a corporation or governmental entity, a representative with full settlement authority must attend. "Full settlement authority" means the authority to negotiate and agree to a binding settlement agreement at any level up to the settlement proposal of the plaintiff. If a party requires insurer approval to settle, a representative of the insurer with full settlement authority must attend. Mere availability by telephone does not suffice.

4. **Conference Format.** Each side will have an opportunity to make an opening presentation, followed by joint discussion with Judge Fine and private meetings with each side. Lawyers and parties should be fully prepared to participate in these discussions. Parties should be willing to reassess their previous positions and explore creative approaches to resolving their dispute(s).
5. **Confidentiality.** Contents of the settlement-conference letters, and the settlement conference itself, are to be kept confidential and must not be disclosed outside of the settlement conference. This includes the presiding judge to whom the case is assigned.
6. **Topics for the Settlement Conference.** Parties and their counsel should consider and be prepared to discuss the following topics at the settlement conference:
  - a. What are your objectives; does continued litigation further them?
  - b. What are the strengths and weaknesses of your case?
  - c. Do you understand the opposing side's view of the case? What is right and wrong about their perception?
  - d. What are the best, worst, and most likely potential outcomes if a settlement is not reached?
  - e. What does winning actually look like? That is, what remedies would the law allow at trial (i.e., damages, injunctive relief, statutory award or penalty, attorneys' fees, interest)?
  - f. Have you considered how to deal with any outstanding liens?

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**Any party who wishes to depart from the procedures and requirement set out above should make a timely request to CRD\_Fine@ilnb.uscourts.gov.**