



UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

IN THE MATTER OF)
)
ATTORNEY SETTLEMENT) GENERAL ORDER NO. 01-04
OFFICER PANEL) (SUPERSEDES GENERAL ORDER 98-2)
)
)
_____)

1. SCOPE AND PURPOSE OF RULE

1.1 Scope. This General Order ("Order") governs the elective and mandatory referral of certain actions for settlement conferences with a neutral member of a settlement panel appointed by the Court.

1.2 Purpose. The Court finds that the substantial increase in the filings of criminal and civil cases in this District, together with the adoption of Congressional requirements for the priority scheduling of criminal trials and the shortage of Judges in this District, have placed significant pressures on litigants, counsel, and the Court. The purpose of this attorney settlement program is to alleviate some of these pressures and to encourage the fair, speedy, and economical resolution of controversies by allowing parties to submit their cases to an impartial Attorney Settlement Officer who is experienced in one or more designated areas of law and/or in the processes of alternative dispute resolution.

2. **ADMINISTRATION**

2.1 **Appointment of the Coordinator.** The Attorney Settlement Officer Panel shall be coordinated by a Program Coordinator (the "Coordinator") at the direction of the Clerk of Court.

2.2 **Duties of the Coordinator.** The duties of the Coordinator shall be established by the Court, and shall include the following:

(a) Maintenance of the current list of panelists available to act as Attorney Settlement Officers, and regular circulation of said list to the Judges of the Court.

(b) Periodic reporting to the Court on the status and effectiveness of the Attorney Settlement Officer Panel, and maintenance of records including disposition and success rates for this purpose.

(c) Performance of any additional duties as the Court may direct which are necessary for the efficient administration of the Settlement Program.

2.3 **Duties of the Bar.**

The Court shall appoint a committee of federal court practitioners for the purpose of:

(a) Assisting the Court with the recruitment of suitable Attorney Settlement Officer candidates;

(b) Reviewing candidate applications for the Attorney Settlement Officer Panel and providing advice to the Court in connection with the selection and appointment of panel members; and

(c) To perform such additional duties as the Court may direct which are

necessary for the efficient administration of the Settlement Program.

3. ATTORNEY SETTLEMENT OFFICER QUALIFICATIONS AND SELECTION

3.1 Qualifications. A person may serve as an Attorney Settlement Officer under this program if

- (a) the person has been a United States Appellate, District, Magistrate or Bankruptcy Judge, or a California Judicial Officer or
- (b) the person is currently a member in good standing of the Bar of the United States District Court, Central District of California, with at least 10 years' legal practice experience, and has significant expertise in one or more of the following areas:

- (1) Americans with Disabilities Act
- (2) Antitrust
- (3) Business / Commercial Litigation
- (4) Civil Rights
- (5) Class Actions
- (6) Copyright / Trademark
- (7) Employment / Discrimination / Wrongful Termination
- (8) Environmental
- (9) ERISA
- (10) Insurance Coverage / Bad Faith
- (11) Labor

- (12) Patent
- (13) Personal Injury
- (14) Products liability
- (15) Real Estate / Construction
- (16) Securities
- (17) Tax

Practitioners with extensive alternative dispute resolution experience may also apply for a position on the Attorney Settlement Officer Panel, subject to the qualifications mentioned in this section.

3.2 Mandatory Training. In order to qualify for appointment to the Attorney Settlement Officer Panel, an applicant shall successfully complete the court-conducted training course in settlement proceedings or provide proof that he or she has successfully completed a court-approved training course in mediation or arbitration. In order to qualify for subsequent reappointments to the Attorney Settlement Officer Panel, an applicant shall agree to periodically participate in court-conducted or court-approved refresher or advanced training.

The committee may, in its discretion, waive the mandatory training requirement upon application of the individual.

3.3 Application of Candidates. An application for selection as an Attorney Settlement Officer can be obtained from the clerk's office, the Coordinator, or can be downloaded from the Court's website located at www.cacd.uscourts.gov. The application shall be submitted to the Coordinator.

3.4 Appointment of Attorney Settlement Officers. Attorney Settlement Officers shall be appointed by the Court. An Attorney Settlement Officer may ask the Coordinator at any time to have his or her name removed from the Panel.

3.5 Term of Appointment. Appointment to the Attorney Settlement Officer Panel shall be for a term of two years. This term may be renewed at the discretion of the Court upon the consent of the Attorney Settlement Officer. The Court may, in its sole discretion, remove any person from the Attorney Settlement Officer Panel who is unable to commit sufficient time to or otherwise meet the requirements of the Attorney Settlement Officer Program.

3.6 Compensation. Acceptance of an Attorney Settlement Officer position is voluntary, and no compensation will be paid to attorneys acting as Attorney Settlement Officers.

4. REFERRAL OF CASES TO THE SETTLEMENT CONFERENCE PROGRAM

4.1 Election of Settlement Conference Program. The election of an Attorney Settlement Officer to conduct the settlement proceedings shall be in accordance with Local Rule 23. Parties opting to pursue this settlement procedure must make that election by filing with the Court a "Notice and Request of Settlement Procedure Selection", in the form attached hereto as Exhibit "A", signed by counsel for all parties, or by oral stipulation of the parties at the Mandatory Settlement Conference. The time requirements for making this election are as set forth in Local Rule 23.

4.2 Effect of Referral. Unless otherwise ordered, a referral to the Attorney Settlement Officer Program under this Rule shall not interfere with any party's right to discovery, alter scheduled pre-trial or trial dates or otherwise affect the operation of the Federal Rules of Civil

Procedure or any other rule of this Court.

5. ASSIGNMENT OF CASE TO ATTORNEY SETTLEMENT OFFICER

5.1 By Stipulation of Parties. The parties may stipulate to an Attorney Settlement Officer on the current Panel List maintained by the Coordinator. Upon obtaining the consent of an Attorney Settlement Officer, the parties' designation of Attorney Settlement Officer shall be contained in a "Stipulation Regarding Selection of Attorney Settlement Officer", in the form attached hereto as Exhibit "B", and filed with the Court.

5.2 By Random Assignment. If the parties are unable to stipulate to an Attorney Settlement Officer to conduct the settlement proceedings, the Clerk of Court shall randomly select an Attorney Settlement Officer from the current Panel List with expertise in the area of the law as designated by counsel for all parties.

6. SCHEDULING AND LOCATION OF SETTLEMENT PROCEEDINGS

6.1 Notice to Parties of Settlement Proceedings. Upon receiving notice of the assignment as the Attorney Settlement Officer, it is the Attorney Settlement Officer's responsibility to schedule a time, date and location for the settlement proceedings to occur as soon as reasonably possible. The Court shall provide suitable space for settlement proceedings if a request is made to the Coordinator. The Attorney Settlement Officer shall either notify the Coordinator of the time, date, and place of the settlement proceedings or notify the Coordinator that a settlement proceeding could not be scheduled within 45 days upon receiving notice of the assignment.

6.2 Continuances and Rescheduling. No continuance or rescheduling of the settlement proceedings shall be granted except upon agreement of the Attorney Settlement Officer.

The Coordinator shall be notified of any continuance or rescheduling of settlement proceedings.

7. **CONDUCT OF SETTLEMENT PROCEEDINGS**

7.1 **Submission of Confidential Settlement Letter.** As required by Local Rule.

7.2 **Appearance by Party Representative.** Each party shall appear at the settlement proceeding in accordance with Local Rule 23. With prior approval of the Attorney Settlement Officer, a party whose defense is provided by a liability insurance company need not personally attend, but a representative of the party's insurer shall attend and must be empowered to settle the case.

7.3 **Attendance of Trial Attorney.** Each party shall be represented at the settlement proceeding by the attorney who is expected to try the case, unless excused for good cause by the Attorney Settlement Officer.

7.4 **Settlement Conference Questionnaires** At the time of the settlement proceeding, the Attorney Settlement Officer shall distribute to each litigant and attorney questionnaires in the form attached hereto as Exhibit "C", to be returned directly to the Coordinator.

7.5 **Report to the Coordinator and the Court.** Within five days after the conclusion of the settlement proceeding, the Attorney Settlement Officer shall submit to the Coordinator and file with the Court an "Attorney Settlement Officer Proceeding Report", in the form attached hereto as Exhibit "D", informing the Administrator and the Court about the disposition of the case. The Attorney Settlement Officer shall also submit a completed questionnaire to the Coordinator in the form attached hereto as Exhibit "E".

7.6 **Confidentiality of Proceedings.** As provided by Local Rule 23.9, all settlement

proceedings shall be confidential and no statement made therein shall be admissible in any proceeding in the case, unless the parties otherwise agree. No part of a settlement proceeding shall be reported, or otherwise recorded, without the consent of the parties, except for any memorialization of a settlement agreement.

7.7 Immunity. Attorney Settlement Officers are performing quasi-judicial functions and are entitled to the immunities and protections that the law accords to persons serving in such capacity.

8. SANCTIONS FOR FAILING TO COMPLY WITH REQUIREMENTS

8.1 Failure to Appear. Failure of counsel or of a party to attend a settlement proceeding shall be reported to the assigned judge by the Attorney Settlement Officer. The assigned judge may impose sanctions for willful failure to attend a settlement proceeding as the Court deems appropriate.

8.2 Failure to Comply With Settlement Proceeding Requirements. The Attorney Settlement Officer may report to the assigned judge any failure by any party to comply with this Order and may recommend that sanctions be imposed by the Court for such failure. The assigned judge may impose such sanctions as appropriate under the circumstances.