



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.

ATTACHMENT "A"

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CASE NUMBER CV-_____

PLAINTIFF(S)

v.

DEFENDANT(S).

NOTICE AND REQUEST OF SETTLEMENT
PROCEDURE SELECTION

Pursuant to Local Rule 23.3, the parties recommend that the Court approve the following settlement procedure:

- 23.5.1 - SETTLEMENT PROCEDURE NO. 1 - The parties shall appear before the (*check one*):
 district judge *or* magistrate judge assigned to the case for such settlement proceedings as the judge may conduct or direct.
- 23.5.2 - SETTLEMENT PROCEDURE NO. 2 - The parties shall appear before an attorney selected from the Attorney Settlement Officer Panel for all further settlement proceedings.
- 23.5.3 - SETTLEMENT PROCEDURE NO. 3 - The parties shall appear before a retired judicial officer or other private or non-profit dispute resolution body for mediation-type settlement proceedings.
- 23.5.4 - SETTLEMENT PROCEDURE NO. 4 - The parties shall appear before a district judge selected at random from the Judicial Civil Settlement Panel for all further settlement proceedings.

Dated: _____

By: _____
Attorney For Plaintiff

Dated: _____

By: _____
Attorney For Plaintiff

Dated: _____

By: _____
Attorney For Defendant

Dated: _____

By: _____
Attorney For Defendant

IT IS SO ORDERED, the above request is:

APPROVED

DENIED; **IT IS FURTHER ORDERED** that the Settlement Procedure shall be as follows:

Dated: _____

United States District Judge/ Magistrate Judge

Courtroom deputy to serve:
Attorney Settlement Officer Panel Coordinator
All counsel of record

ATTACHMENT "B"

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CASE NUMBER CV-_____

PLAINTIFF(S)

v.

STIPULATION REGARDING SELECTION
OF ATTORNEY SETTLEMENT OFFICER

DEFENDANT(S).

Pursuant to Local Rule 23.5.2. the parties stipulate that _____

may serve as the Attorney Settlement Officer for the settlement proceedings in the above-captioned case.

The parties request the Program Coordinator to randomly assign an Attorney Settlement Officer for the

settlement proceedings in the above-captioned case from the following area of law: _____.

Dated: _____

By: _____

Attorney For Plaintiff

Dated: _____

By: _____

Attorney For Plaintiff

Dated: _____

By: _____

Attorney For Defendant

Dated: _____

By: _____

Attorney for Defendant

Attorney for Plaintiff to file with the court.

Attorney Settlement Officer Panel Coordinator to serve:

Trial Judge

Attorney Settlement Officer

ATTACHMENT "C"



**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

**ATTORNEY SETTLEMENT OFFICER PROGRAM
PARTICIPANT QUESTIONNAIRE**

In accordance with the Alternative Dispute Resolution Act of 1998, the Court is requesting your assistance to evaluate the effectiveness of the Attorney Settlement Officer Program. Please complete this questionnaire and return it to the ADR Coordinator, 312 S. Spring Street, Room G-8, Los Angeles, California 90012. An addressed envelope has been provided for your convenience. **This information is confidential and will be used only to evaluate the program.** Thank you.

Case Name: _____

Case Number: _____

Your Role:

- | | | | |
|-------------|--------------------------|-------------------------|--------------------------|
| Plaintiff | <input type="checkbox"/> | Plaintiff(s)' Counsel | <input type="checkbox"/> |
| Defendant | <input type="checkbox"/> | Defendant(s)' Counsel | <input type="checkbox"/> |
| Third-Party | <input type="checkbox"/> | Third-Party(s)' Counsel | <input type="checkbox"/> |
| Insurer: | <input type="checkbox"/> | Insurer(s)' Counsel | <input type="checkbox"/> |

Other (please describe): _____

Please check one response for each question below:

	<u>Yes</u>	<u>In Part</u>	<u>No</u>
1. Is this case settled?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Was the settlement proceeding instrumental in moving this case toward resolution?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Did you/your client realize any savings in case costs, attorney fees, or client time attributable to participating in the settlement proceeding?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Did the settlement proceeding			
a. narrow issues in dispute?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. generate creative settlement options not otherwise considered?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. harden positions, making a negotiated outcome more difficult?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. make you/your client more realistic about the strengths/weaknesses of you/your client's case?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. reduce the emotional toll to you/your client (as opposed to litigation or the litigation process)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Prior to this settlement proceeding, had you used the Attorney Settlement Officer Panel before? If yes, how many times: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

ATTACHMENT "D"

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CASE NUMBER CV- _____

v. PLAINTIFF(S)

DEFENDANT(S).

ATTORNEY SETTLEMENT OFFICER
PROCEEDING REPORT

A settlement proceeding was held on _____, 20_____, and the results of that proceeding are indicated below:

- (1) The following individuals, parties, corporate representatives, and/or representatives of the party's insurer attended and participated in the proceeding, and each possessed the requisite settlement authority:

_____ All individual parties and their respective trial counsel.

_____ Designated corporate representatives.

_____ Representatives of the party's insurer.

- (2) The following individuals, parties, corporate representatives, and/or representatives of the party's insurer failed to appear and/or participate as ordered:

(3) The outcome of the proceeding was:

The case has been completely settled. Immediately after the conclusion of the settlement proceeding, the parties shall notify the trial judge's deputy courtroom clerk of the fact of settlement and shall promptly file documents regarding the final disposition of the case.

The case has been partially resolved and the parties shall file a joint stipulation regarding those claims which have been resolved. The following issues remain for this Court to resolve:

The proceeding was continued with the consent of all parties and counsel. The rescheduled proceeding will be held on a date certain not later than the time requirements set forth in Local Rule 23.3. Any continuance beyond that time must be approved by the trial judge. Attorney Settlement Officer Proceeding Reports will be filed after additional proceedings are complete.

The parties are unable to reach an agreement at this time.

Dated: _____

Signature of Attorney Settlement Officer

Name of Attorney Settlement Officer

Mailing Address

City, State, and Zip Code

Telephone Number

Attorney Settlement Officer to file original with court and serve:

All counsel of record

Attorney Settlement Officer Panel Coordinator

ATTACHMENT "E"



**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

**ATTORNEY SETTLEMENT OFFICER PROGRAM
ATTORNEY SETTLEMENT OFFICER QUESTIONNAIRE**

The Court is requesting the assistance of the Attorney Settlement Officer in each case to determine whether the program is working as intended and how it may be improved. Please complete this questionnaire and return it to the ADR Coordinator, 312 S. Spring Street, Room G-8, Los Angeles, California 90012. An addressed envelope has been provided for your convenience. This information is confidential and will be used only to evaluate the program. Thank you.

Case Name: _____

Case Number: _____

Please check one response for each question below:

	<u>Yes</u>	<u>In Part</u>	<u>No</u>
1. Did counsel seem to understand the process?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Did the parties seem to understand the process?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Were the attorneys well prepared for the process?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Were the parties well prepared for the process?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Was the settlement proceeding attended by an individual(s) who had full settlement authority?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

If no, why not: _____

6. How much time did you spend in preparation for the settlement proceeding? _____ hours
7. How much time did you spend with the parties at the settlement proceeding? _____ hours

The Attorney Settlement Officer settlement proceeding (Please check all that apply.):

- | | | | |
|---|--------------------------|------------------------------------|--------------------------|
| Resolved the disputed matter | <input type="checkbox"/> | Reduced litigants' costs | <input type="checkbox"/> |
| Moved the parties towards settlement | <input type="checkbox"/> | Reduced the duration of litigation | <input type="checkbox"/> |
| Had little impact on the matter | <input type="checkbox"/> | Helped the parties define issues | <input type="checkbox"/> |
| Did not resolve and was detrimental to the resolution of the matter | <input type="checkbox"/> | Reduced litigants' stress | <input type="checkbox"/> |
| Prompted the early exchange of documents | <input type="checkbox"/> | Needed to occur earlier | <input type="checkbox"/> |
| Helped to improve or maintain the relationship between the parties | <input type="checkbox"/> | Needed to occur later | <input type="checkbox"/> |

