

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
----- DIVISION**

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)	
Plaintiff)	
)	
v.)	Civil Action No.
)	
)	
)	By: Hon. Michael F. Urbanski
Defendant)	United States Magistrate Judge

SETTLEMENT CONFERENCE ORDER

This case has been referred to the Magistrate Judge for a settlement conference. In order to facilitate the just and expeditious resolution of this case, it is **ORDERED** as follows:

1. All parties and their lead counsel are required to appear at the settlement conference scheduled in the **United States District Court, Third Floor Courtroom, 210 Franklin Road, Roanoke, VA 24011, at 9:00 a.m. on ----- and ending at 1:00 p.m.**, for the purpose of conducting discussions, in good faith, towards a compromise resolution of this case. *Other court proceedings will be scheduled beginning at 2:00 p.m., so the parties need to be prepared to conclude their negotiations during the time scheduled.*

2. At the settlement conference, the parties should be prepared to provide a brief presentation outlining the factual and legal highlights of the case to be followed by separate confidential caucuses with the Magistrate Judge.

3. Each party must bring to the settlement conference a person with full and complete authority to settle the case, up to the amount of plaintiff's last demand.

4. The authority of persons in attendance shall include the ability to completely resolve all facets of the case without the need to seek or obtain additional authority from persons not in attendance. No party or party representative is permitted to appear at the settlement conference via telephone without first obtaining court approval. If there are issues involving medical or other liens, plaintiff shall arrange to have a representative with authority for the lienholder present at the settlement conference.

5. Prior to the settlement conference, the parties should make good faith efforts to negotiate and settle the case. Specific proposals and counter proposals beyond the initial offer and demand should be exchanged.

6. The substantive negotiations at the settlement conference are **CONFIDENTIAL** and may not be used by the parties for any purpose other than settlement.

7. The parties are advised that during the course of the settlement conference, it is expected and understood that the Magistrate Judge will provide legal information and evaluation to aid the parties in making informed decisions. Such legal information and evaluation includes, for example, opining as to the strength and weaknesses of factual and legal positions, assessing the value and costs of alternatives to settlement, and/or assessing the barriers to settlement. By participating in a settlement conference with the Magistrate Judge, the parties are deemed to have requested and consented to such an evaluative approach. Should a party not be interested in a evaluative approach, they should so advise the Magistrate Judge. In that case, the settlement conference will be cancelled, and the parties may avail themselves of private mediation.

8. The parties are further advised that (i) the Magistrate Judge does not provide legal advice; (ii) any agreement reached at the settlement conference may affect the legal rights of the parties; (iii) each party has the opportunity to consult with independent legal counsel at any time

and is encouraged to do so; and (iv) each party should have any draft settlement agreement reviewed by independent counsel prior to signing the agreement.

9. **The parties shall submit a brief statement as to their factual and legal position on or before -----.** The parties may submit this statement in either memorandum or letter form. The parties are required to exchange statements so that the opposing side may have a complete understanding of each side's position. The statements should address relevant factual issues, legal position, and the history of any settlement demands or offers in the case. The statement must identify the persons who will be present at the settlement conference, their positions, and the basis for their authority to resolve the case. Finally, the statement shall include a representation that the persons to be present meet the authority requirement of paragraph 3 of this Order. **This statement should not be electronically filed but is to be faxed to 540/857-5129 or emailed to urbanski.ecf@vawd.uscourts.gov.**

10. In addition to the statements to be exchanged, the parties may submit a separate statement to the Magistrate Judge relating confidential or strategic issues affecting settlement.

11. If the case is resolved at the settlement conference, the parties will be required to execute a settlement agreement that day. Therefore, a party requiring that certain terms be included in a settlement agreement should bring an electronic version of such agreement, in either Word or WordPerfect format, to the conference to facilitate preparation and execution of the settlement agreement.

12. If a party appears at the settlement conference without having complied with the requirements of this Order, the Magistrate Judge may continue or cancel the settlement conference, and may assess against the noncomplying party, attorney, or both, a monetary

sanction, which may include the fees and expenses incurred by the other parties in attending the settlement conference.

13. If the case presents unusual circumstances, or if you have any questions, counsel are encouraged to set up a conference call or email the Magistrate Judge prior to the settlement conference. Initially, such communications should involve all parties. Thereafter, the parties may raise confidential or strategic considerations with the Magistrate Judge on a separate and confidential basis.

Enter this _____ day of _____, 2009.

Michael F. Urbanski
United States Magistrate Judge