

HONORABLE HENRY S. PERKIN
United States Magistrate Judge
Suite 4401
Edward N. Cahn U.S. Courthouse and Federal Building
504 Hamilton Street
Allentown, Pennsylvania 18101
Telephone No. 610-434-3823

SETTLEMENT PROCEDURES

1. *When Jurisdiction Remains with the District Court Judge*

A. *Preliminary Telephone Conference*

When a matter is referred to Judge Perkin for purposes of settlement he will generally hold a chambers conference with the parties. In certain cases, he may choose to hold a preliminary telephone conference with counsel. At the time of the telephone conference, counsel will be expected to discuss:

- (1) the status of settlement discussions (if any);
- (2) the possibility of settlement;
- (3) whether counsel would like to have ex-parte phone conferences with Judge Perkin relative to settlement. If *all* parties execute and deliver ex-parte consents, Judge Perkin will engage in ex-parte conferences with counsel and the parties as he deems necessary. The form of consent is attached to these procedures and may be used by counsel.
- (4) the timing of the actual chambers conference.

Counsel shall discuss settlement with their clients before the preliminary telephone conference.

It is Judge Perkin's practice to hold settlement conferences as early as practicable and to stage discovery in order to facilitate settlement and control costs without contradiction to the referring judge's Rule 16 Scheduling Order.

B. *Settlement Conference Memoranda*

Judge Perkin will normally require counsel to submit a brief written conference summary one week before the scheduled conference including an offer/demand settlement proposal. This summary should not exceed two (2) pages. Judge Perkin requires that counsel exchange their summaries, but counsel is not required to communicate their settlement proposals in the exchanged summaries. This information may be provided by a separate document to the Court. The summaries

are not to be filed with the Clerk's office. A form to be used with the summaries is attached to these procedures.

C. *Parties' Attendance and Participation*

Judge Perkin will require that a party or party's representative with knowledge of the case and *full and binding* settlement authority attend the chambers conference *in person*. **At the settlement conference, trial counsel shall appear and bring with them all persons whose consent may be necessary to settle the case. "[A]ll persons" shall mean insurance adjustors with full and unlimited authority to settle the case, as well as clients. Persons present must have full and unlimited settlement authority and may not confer by telephone with anyone to seek additional authority. Defendant's settlement authority must be consistent with and not less than the Plaintiff's last demand. Defendant's settlement authority must be consistent with and not less than the Plaintiff's last demand.** *Only* in exceptional circumstances, Judge Perkin will permit that person to participate in the conference by telephone. This shall be the exception rather than the rule. Counsel seeking this relief must contact chambers as soon as they are aware of a problem with attendance. A copy of Judge Perkin's Settlement Conference Scheduling Order is attached for reference. Counsel and the parties must strictly adhere to this procedure.

At the conference, the judge will expect counsel to:

- Be prepared to discuss the weaknesses, as well as, the strengths of their case.
 - Prepare their client. Judge Perkin will speak to them directly.
 - Be patient. Settlement is a process. It takes time.
 - Be flexible. Avoid bottom lines or top numbers.
 - Realistically evaluate the case.
 - Manage your client's expectations.
 - Manage your own expectations.

D. *Follow-up Contact*

Judge Perkin will, if appropriate, continue to work with counsel after the settlement conference if the matter is not resolved at the conference.

E. *Continuances*

Settlement conferences are scheduled by order of the court and are not discretionary. Counsel and participants should use all efforts to be available for this conference. Due to the large number of cases scheduled for settlement conferences, any need to reschedule the conference could cause a delay of that conference for several weeks. For this reason, any continuance requests should be made within fourteen (14) days of receipt of the notice scheduling the conference. Continuance requests will only be granted for the most compelling reasons.

2. *When Jurisdiction for All Purposes Has Been Referred to Judge Perkin*

A. *Jury Matters*

Judge Perkin may, after discussion with counsel, conduct his own settlement conferences utilizing the above-outlined procedures. If not appropriate, but a conference is deemed worthwhile, Judge Perkin may obtain the assistance of another magistrate judge to preside over settlement discussions.

B. *Non-Jury Matters*

Judge Perkin will not take part in settlement discussions in a non-jury matter. A settlement conference may, however, be arranged with another magistrate judge.

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

FOR THE

v. : CIVIL ACTION
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SETTLEMENT CONFERENCE SCHEDULING ORDER

Please be advised that an in person settlement conference in the above captioned case will be held on at before the Honorable Henry S. Perkin, United States Magistrate Judge, in Suite 4401, Edward N. Cahn United States Courthouse and Federal Building, 504 West Hamilton Street, Allentown, PA, 18101.

COUNSEL ARE DIRECTED TO REPORT TO CHAMBERS ON THE DATE AND TIME STATED ABOVE. PURSUANT TO LOCAL RULE 16.1 (d) 3, **TRIAL COUNSEL** SHALL APPEAR AND BRING WITH THEM ALL PERSONS WHOSE CONSENT MAY BE NECESSARY TO SETTLE THIS CASE. **ALL PERSONS SHALL MEAN INSURANCE ADJUSTORS WITH FULL AND UNLIMITED AUTHORITY TO SETTLE THE CASE, AS WELL AS CLIENTS. PERSONS PRESENT MUST HAVE FULL AND UNLIMITED SETTLEMENT AUTHORITY AND MAY NOT CONFER BY TELEPHONE WITH ANYONE TO SEEK ADDITIONAL AUTHORITY. DEFENDANT'S SETTLEMENT AUTHORITY MUST BE CONSISTENT WITH AND NOT LESS THAN THE PLAINTIFF'S LAST DEMAND.**

FAILURE TO COMPLY WITH THIS ORDER MAY RESULT IN THE IMPOSITION OF SANCTIONS.

Counsel are further directed to complete the enclosed Settlement Conference Summary and return it to Chambers on or before Date . (Fax is acceptable.)

See Judge Perkin's Settlement Procedures at www.paed.uscourts.gov.

Hon. Henry S. Perkin
Phone: 610-434-3823
FAX: 610-434-5152

Date:

cc:

SETTLEMENT CONFERENCE SUMMARY

CAPTION: _____

DISTRICT COURT JUDGE: _____

JURY/NONJURY _____ TRIAL/POOL DATE: _____

(Circle One) TRIAL COUNSEL ATTENDING SETTLEMENT CONFERENCE:

Name: _____

Address: _____

Phone: _____

Client: _____ MOTIONS

PENDING: _____

OTHER RELEVANT MATTERS:

PRIOR OFFERS/DEMANDS:

ATTACH SYNOPSIS OF CASE (LIMITED TO TWO PAGES)

Counsel is asked to strictly adhere to the standard directives set forth in Judge Perkin's Policies and Procedures.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

:
CIVIL ACTION

v.

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No.

CONSENT TO HAVE EX PARTE COMMUNICATION
WITH UNITED STATES MAGISTRATE JUDGE

Counsel for the parties to the above-captioned civil proceeding hereby consent to ex parte communication with the United States Magistrate Judge Henry S. Perkin for the purpose of assisting with settlement/discovery matters in the above-captioned case.

The undersigned represent all counsel in the above-captioned civil proceeding.

DATED:

(Attorneys)

(Representing)