
ADVICE TO PARTIES ABOUT SETTLEMENT CONFERENCE

(This is a guideline to what a judge conducting a settlement conference may require the parties to provide. The requirements may vary from case to case)

[1] A judicial settlement conference has been convened for [DATE] at the Employment Court [PLACE]. As the aim of this conference is to try and reach a settlement of the proceedings the parties are expected to attend with the good faith intention and the authority to achieve this.

[2] In preparation for the conference each of the parties is to file and serve a memorandum to address the questions and attach the information requested below 5 working days prior to the date of the conference. All answers and information provided will be subject to the following statement of privilege.

Privilege

Settlement conferences and any papers filed in connection with them are without prejudice and are privileged apart from the record of whether a settlement was reached or not. The memoranda requested in this minute will not form part of the formal Court record and, unless requested by any party and consented to by all other parties, it will be destroyed; returned to counsel, and all parties who have provided them; removed from the file; or sealed up at the conclusion of the conference. The documents that the parties have provided to each other should be dealt with in accordance with any agreement between the parties.

Questions

1. What are the issues in this litigation?
2. Which of these issues are inhibiting your ability to settle and why?
3. Have you and the other party engaged in settlement negotiations? Please describe the nature of these negotiations, i.e. counsel to counsel, mediation, etc.
4. What offers of settlement have been made by both parties?
5. What criteria was any offer based on?
6. What else do you believe that the settlement conference Judge should know about this matter that would enable the conference to proceed productively with the full participation of all parties?

Information

1. Attach those documents you intend to rely on at the settlement conference.
2. Attach a one page “will-say” statement from each of your key witnesses. This will begin: “Witness A will say the following ...”. The “will-say” documents may not be used for the purpose of cross-examination.
3. Submit any expert reports that you rely upon in your settlement negotiations or to support your perspective of the case. Highlight and tab those portions that you consider to be important to your case.
4. Attach a one page summary of any relevant legal issues including the leading authorities.

JUDGE