

As of September 2023

**SETTLEMENT CONFERENCE PROCEDURES FOR  
MAGISTRATE JUDGE GARY STEIN**

**Chambers**

500 Pearl Street, Room 702  
United States Courthouse  
New York, NY 10007  
(212) 805-6120  
[GSteinNYSChambers@nysd.uscourts.gov](mailto:GSteinNYSChambers@nysd.uscourts.gov)

**Courtroom**

500 Pearl Street, Room 9A  
United States Courthouse  
Southern District of New York  
New York, New York 10007  
Deputy Clerk: Mr. Tanuj Arora

The Court believes the parties should fully explore settlement at the earliest practical opportunity. Early settlement allows the parties to avoid the substantial cost, expenditure of time, and uncertainty that typically are part of the litigation process. Even for those cases that cannot be resolved, early consideration of settlement can provide the parties with a better understanding of the factual and legal nature of their dispute and streamline the issues to be litigated.

Consideration of settlement is a serious matter that requires thorough preparation prior to a settlement conference. It also requires thoughtful consideration of the other side's point of view. Set forth below are the procedures the Court requires the parties and counsel to follow, and the manner in which the Court will typically conduct the conference.

1. **Confidentiality.** All settlement conferences are “off the record.” All communications relating to settlement are strictly confidential and may not be used for any purpose other than settlement. They are not to be used in discovery and will not be admissible at trial.
2. **Magistrate Judge’s Role.** The magistrate judge functions as a mediator, attempting to help the parties reach a settlement. Efficient use of this process requires that counsel and their clients be prepared for the conference, candid with the mediator, and genuinely committed to finding a resolution.
3. **Pre-Conference Phone Call.** The Court will typically schedule a telephone call with the parties prior to the settlement conference to discuss issues pertinent to settlement, during which the conference will be scheduled.
4. **Exchange of Information.** Each party should consider what key information they believe they need from any other party in order to effectively assess a potential settlement. The parties should then cooperate in good faith to discuss the material to be exchanged and then effect the exchange sufficiently in advance of the settlement conference. This does not require a party to furnish any information they

choose not to provide and are not otherwise obligated to produce, but providing such information is encouraged.

- 5. Ex Parte Settlement Letter.** No later than 5 business days before the conference, counsel for each party must send the Court by e-mail a letter, marked “Confidential Material for Use Only at Settlement Conference,” which should not be provided to opposing parties. The reason the letter is not to be shared with other parties is to ensure that counsel is candid with the Court as to the strengths and weaknesses of their client’s case and the nature and range of an acceptable settlement. The letter should be emailed to [GSteinNYSChambers@nysd.uscourts.gov](mailto:GSteinNYSChambers@nysd.uscourts.gov).<sup>1</sup>

The letter must not exceed 5 pages (single spaced), unless permission has been granted by the Court, and must otherwise adhere to Local Civil Rule 11.1. The letter should include, at a minimum, the following: (a) a concise statement of the issue(s) in dispute; (b) the history of settlement negotiations, including any prior offers or demands; (c) evaluation of the settlement value of the case and the rationale for it; (d) identification of the strengths and weaknesses of the case to the extent not already included; and (e) any other information that would be helpful to the Court in preparing for the conference. Parties may attach exhibits to their letters to the extent they believe the exhibits would aid settlement discussions; however, if the exhibits exceed 10 pages, a courtesy copy of the letter and exhibits must be hand-delivered or sent by overnight courier to the Court.

- 6. Attendance Acknowledgment Form.** Counsel shall complete the Attendance Acknowledgment Form that appears at the end of these Procedures. This Form must be submitted at the same time as the Ex Parte Settlement Letter by e-mail to [GSteinNYSChambers@nysd.uscourts.gov](mailto:GSteinNYSChambers@nysd.uscourts.gov) with a copy simultaneously e-mailed to all counsel of record who will be participating in the settlement conference. Parties proceeding **pro se** need not submit the Attendance Acknowledgment Form.
- 7. Exchange of Demand/Offer.** If the plaintiff has not already made a settlement demand, such a demand shall be communicated to the opposing party no later than 14 days prior to the conference. If it has not already done so, the opposing party shall respond to any demand no later than 7 days prior to the conference.
- 8. Attendance Requirements.** The parties—not just their attorneys—must attend the settlement conference in person. Corporate parties or labor unions must send to the conference the person with decision-making authority to settle the matter. Where liability insurance is involved, a decision-making representative of each carrier must attend unless specifically excused by the Court. Where any

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<sup>1</sup> If a party (e.g., a pro se litigant) is unable to send the letter by e-mail, the party may fax or hand-deliver the letter to the Court, or send it by mail or overnight delivery, so long as it arrives no later than five business days before the conference.

government agency is a party, counsel of record must be accompanied by a knowledgeable representative from the agency. In addition, in cases where the Comptroller of the City of New York has authority over settlement, the Assistant Corporation Counsel must make arrangements in advance of the conference for a representative of the Comptroller either to attend the conference or to be available by telephone to approve any proposed settlement.

In the event personal attendance is a great hardship, counsel may write to the Court seeking permission for that individual to participate by telephone or video conference (although permission will be the exception, not the rule). This issue should be raised with the Court as soon as possible and preferably during the pre-conference phone call. Incarcerated parties may participate in the conference by telephone.

Any party requiring an interpreter must supply its own interpreter (who need not have any special certification). The Court does not provide interpreters for settlement conferences.

9. **Consequences of Non-Compliance with Attendance Requirements.** If a party fails to comply with the Attendance Requirements set out above, that party may be required to reimburse all the other parties for their time and travel expenses, and may face other sanctions.
10. **Conference Location.** Unless advised otherwise by the Court, the settlement conference will take place in Courtroom 9A at 500 Pearl Street.
11. **Adjournments of Settlement Conferences.** Requests for adjournment shall conform to the Individual Practices in Civil Cases of Magistrate Judge Stein, with the following modification: requests submitted more than 14 days before the scheduled conference date ordinarily will be granted without a showing of good cause; requests submitted within 14 days of the date of the scheduled conference must demonstrate good cause. Ordinarily, good cause will be found where (a) an adjournment would permit necessary discovery or exchange of information that would make the conference more fruitful, or (b) a client who would otherwise be permitted to participate by telephone would be available to attend the conference in person were it held on another date. All requests should provide alternative dates when all the parties are available. The conference date is not changed unless and until ordered by the Court.
12. **No Effect on Other Deadlines.** The scheduling of a settlement conference has no effect on any deadlines or other pending obligations in the case, unless otherwise ordered by the Court.

