

REQUEST FOR VOLUNTARY SETTLEMENT CONFERENCE; ACKNOWLEDGMENT OF RESPONSIBILITIES AND WAIVER

We have selected the Two Attorney Settlement Panel as our mode of Alternative Dispute Resolution (ADR) and agree to act in good faith and comply with the rules set forth below.

DISCLAIMER: The Bar Association of Northern San Diego County provides the settlement panel list as a free public service. It does not guarantee or warrant the competency, impartiality, or qualifications of any attorney included on the list. The Bar Association has no input or control over the process and makes no guarantee as to the outcome.

Explanation of the Two Attorney Settlement Process

BACKGROUND. You are currently involved in litigation, which is a dispute resolution process in which the court imposes binding decisions on the disputing parties in a formal, rule-oriented process based on legal rights and obligations. Litigation is time consuming, expensive, and somewhat of a winner-take-all situation. You have chosen the Two Attorney Settlement Panel as an alternative method of resolving your dispute.

This process is a form of mediation in which opposing parties work towards an agreed solution to their dispute with the aid of a neutral third party. The process is designed to give you the wisdom and advice of seasoned attorneys to assist you in better managing conflict and finding an acceptable solution. The key difference between mediation and litigation is that in mediation the outcome is determined by the parties themselves rather than being imposed by a third party.

PROCEDURE. The settlement officers will be available for approximately three hours. The process itself is very flexible. Generally, there is an initial meeting where the parties and the settlement officers meet for introductions and a brief statement of their respective cases. From that point, the settlement officers will often separate the parties and discuss each of their cases privately. Sometimes this results in proposing and negotiating settlements back and forth, and sometimes the parties are brought back together to clear up issues and institute settlement dialogue. If a settlement is reached, it is often written out and signed by the parties at the conference.

BENEFITS. There are many benefits to this form of dispute resolution.

Informality. You are not bound by the formal rules of evidence in presenting your case. It is conducted in a conference room—not a court room, and you are free to speak your mind.

Confidentiality. There are no third parties present, it is not recorded, and what you say goes no further than the settlement conference. Confidences you discuss with the settlement officers are not shared with the other party. All discussions, offers, and statements made cannot be used later in trial or for other purposes.

Impartiality. You or your attorney have selected experienced attorneys who are not partial to either side of the dispute to act as settlement officers. They evaluate your case, listen to your position and issues, and make recommendations. While they will attempt to settle your case and promote resolution, they do not make decisions. They are there to open dialogue and facilitate discussion so that the parties can reach an acceptable resolution memorialized in a written agreement on the disputed matter.

Inexpensive. There is no cost for the settlement officers' time.

Non-binding. You are not submitting your dispute to the settlement officers for a ruling. You are only bound if all parties reach an agreement.

OBLIGATIONS. By selecting this method of alternative dispute resolution, you must accept certain obligations. If you agree to this process for some ulterior motive and then refuse to participate or participate in bad faith, the settlement officers may terminate the proceeding. If you select this process, be prepared to discuss the facts, your claims, the basis for your claims, and what you want; be willing to deal fairly with your opponent; be emotionally capable of dealing with subjects that need to be resolved; be honest about your case to the settlement officers; and, most of all, be open to resolving your case in other manners and on terms you had not initially considered.

Appearance at Settlement Conference

All parties must be personally present. For good cause, a party or agent may be excused from attendance at such conferences provided prior arraignment has been made for such party or agent to be available by telephone during the conference. Counsel shall be completely familiar with the case and possess complete authority to negotiate and settle. All parties must participate in good faith.

Settlement Briefs

Written statements of the position of each party are required and must be lodged with the settlement officers at least five (5) calendar days prior to the settlement conference, unless otherwise agreed. The settlement briefs are confidential and will not become a part of the public court file. Briefs should not exceed five (5) pages and should include, among other things:

- a. Identification of the parties and their relationship

- b. Brief description of events leading to the dispute
- c. Factual background
- d. List of issues and discussion of each including position or contention of the party on each issue
- e. Pertinent law and authority
- f. Discussion of any settlement attempts and the party's position regarding settlement
- g. Material exhibits may be attached, e.g., pleadings, diagrams of real property, photographs, and key trust provisions, but other exhibits should be brought to the conference

Settlement Agreement

If a settlement is reached, you are encouraged to put it on the record if a judge is available or to write it out and have all parties sign it at the conference. A generic form is available for modification.

I HAVE READ THE FOREGOING EXPLANATION, DISCLAIMER, AND REQUIREMENTS OF USING THE TWO ATTORNEY SETTLEMENT PANEL AND AGREE TO BE BOUND BY THE RULES SET FORTH. I AGREE TO HOLD THE BAR ASSOCIATION OF NORTHERN SAN DIEGO COUNTY AND PANEL MEMBERS/SETTLEMENT OFFICERS FREE AND HARMLESS OF ANY AND ALL LIABILITY AND HARM THAT WE MAY SUFFER AS A RESULT OF USING THIS FREE SERVICE.

Date: _____

Date: _____

Date: _____

Date: _____