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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

KEVIN MICHAEL BROPHY, JR., ) Case No. SACV 17-1885-CJC (JPRx)  
  ) )  
  ) Plaintiff, ) )  
  ) )  
  ) ORDER RE SETTLEMENT CONFERENCE  
  ) )  
  ) v. ) )  
  ) )  
  ) )  
  ) BELCALIS ALMANZAR et al., ) )  
  ) )  
  ) Defendants. ) )  
  ) )  
  ) )

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PLEASE READ THIS ORDER CAREFULLY

The Settlement Conference is placed on calendar for Friday, August 20, 2021, at 1:30 p.m. in Courtroom 690 of the Edward R. Roybal Courthouse in Los Angeles, California. Because of the ongoing coronavirus pandemic, the settlement conference may be conducted on Zoom. If so, the parties will be provided a meeting link closer to the conference date.

The Magistrate Judge will not be involved in the actual trial of the case but rather will assist the parties in an objective appraisal and evaluation of the case. If the case does not settle, however, the Magistrate Judge will continue to

1 preside over any discovery disputes that may subsequently arise  
2 between the parties. Settlement allows the parties to avoid the  
3 substantial cost, expenditure of time, and stress that are  
4 typically part of the litigation process. Consideration of  
5 settlement is a serious matter that requires thorough preparation  
6 before the Settlement Conference. Below are the procedures the  
7 parties must follow in preparing for it.

8 1. The purpose of the conference is to permit an informal  
9 discussion among the attorneys, parties, nonparty indemnitors or  
10 insurers, and the settlement judge of every aspect of the case  
11 bearing on its settlement value. Thus, the settlement conference  
12 should not take place until the parties have exchanged any  
13 critical discovery.

14 2. All settlement proceedings are confidential, and no  
15 statement made during them will be admissible in any proceeding  
16 in the case unless the parties otherwise agree. No part of the  
17 Settlement Conference will be reported or otherwise recorded  
18 without the consent of the parties except for any memorialization  
19 of a settlement. Although Local Rule 16-15.8 does not apply to a  
20 settlement conference conducted by a Magistrate Judge, this Court  
21 generally adheres to it.

22 3. In addition to counsel who will try the case, a person  
23 with full settlement authority must be present for each party.  
24 This requirement contemplates the physical presence of each  
25 individual party or, if a corporate or governmental entity, of an  
26 authorized and knowledgeable representative of the party.<sup>1</sup> The

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27  
28 <sup>1</sup> If this matter is a lawsuit in which the United States or  
any of its agencies is a party, the Assistant U.S. Attorney who

1 Plaintiff's representative must have full and final authority, **in**  
2 **the representative's sole discretion,** to authorize dismissal of  
3 the case with prejudice or to accept a settlement recommended by  
4 the settlement judge in an amount equal to at least the  
5 Defendant's last offer made before the Settlement Conference.  
6 The Defendant's representative must have final settlement  
7 authority to commit the Defendant to pay, **in the representative's**  
8 **sole discretion,** a settlement amount recommended by the  
9 settlement judge of as much as the Plaintiff's prayer (excluding  
10 punitive-damages prayers) or up to the Plaintiff's last demand  
11 made before the Settlement Conference, whichever is lower.

12 The purpose of this requirement is to have representatives  
13 present who can settle the case during the course of the  
14 conference without consulting a superior.

15 4. If Board approval is required to authorize settlement,  
16 the attendance of at least one sitting and knowledgeable member  
17 of the Board (preferably the Chairman) is absolutely required.

18 5. Subject to paragraph 7 below, counsel appearing without  
19 their clients (whether or not counsel claim to have been given  
20 settlement authority) will cause the Settlement Conference to be  
21 cancelled and rescheduled if possible. The noncomplying party or  
22 attorney - or both - may be assessed the costs and expenses  
23 incurred by other parties as a result of such cancellation and  
24 rescheduling.

25  
26 \_\_\_\_\_  
27 will try the case may appear without a representative, provided  
28 that he or she comes armed with the full measure of authority  
conveyed by his or her superiors within the U.S. Attorney's Office  
after appropriate consultation.

1           6. Any insurance company that is a party to the case or is  
2 contractually required to defend or to pay damages assessed  
3 within policy limits should have a settlement representative at  
4 the conference. The representative must have final settlement  
5 authority to commit the company to pay, **in the representative's**  
6 **sole discretion**, an amount recommended by the settlement judge  
7 within the policy limits. The purpose of this requirement is to  
8 have an insurance representative present who can settle the  
9 outstanding claim or claims during the course of the conference  
10 without consulting a superior. An insurance representative  
11 authorized to pay, **in his or her sole discretion**, up to the  
12 Plaintiff's last demand made before the Settlement Conference  
13 will also satisfy this requirement. Counsel of record will be  
14 responsible for timely advising any involved nonparty insurance  
15 company of the requirements of this Order.

16           7. When a person whose personal attendance would otherwise  
17 be required under the foregoing paragraphs resides outside the  
18 District, the Court will consider excusing his or her personal  
19 attendance as long as the person can and will be available by  
20 telephone during the entire Settlement Conference. **If a party**  
21 **desires to avail itself of this excuse from personal attendance,**  
22 **counsel should make that request in the party's Settlement**  
23 **Conference Statement** (and specify where the person will be  
24 located during the Settlement Conference). After the party's  
25 Settlement Conference Statement is submitted, counsel should  
26 contact Magistrate Judge Rosenbluth's courtroom deputy clerk to  
27 ascertain whether the request has been granted. Frequently, such  
28 requests are not granted.

1           8. Before, during, or after the Settlement Conference, the  
2 Magistrate Judge may, in her discretion, converse with the  
3 lawyers, the parties, the insurance representatives, or any one  
4 of them outside the hearing of the others. The comments of the  
5 judge during such separate sessions are not to be used by counsel  
6 in settlement negotiations with opposing counsel. This is a  
7 necessary requirement in order to avoid intentional or  
8 unintentional misquotation of the judge's comments. If all  
9 counsel and parties are not present to hear the Court's opinions,  
10 it is all too easy for counsel to misstate the Court's comments  
11 in an effort to obtain a tactical advantage with opposing  
12 counsel. Violation of this policy may hinder settlement.

13           9. Before the Settlement Conference, the attorneys are  
14 directed to discuss settlement with their respective clients and  
15 insurance representatives, so that the parameters of possible  
16 settlement will have been explored well in advance of the  
17 Settlement Conference. At the Settlement Conference, each party  
18 must be fully prepared to discuss all economic and noneconomic  
19 factors relevant to a full and final settlement of the case.

20           10. In order to avoid the unnecessary expenditure of  
21 resources if the case is not ripe for settlement, and to provide  
22 the parties with a starting point for their settlement  
23 discussions with the Magistrate Judge if the case is ripe for  
24 settlement, Plaintiff must advise Defendant(s) of the terms upon  
25 which Plaintiff is prepared to settle the case, in a letter  
26 delivered or faxed to Defendant(s) no later than 14 days before  
27 the Settlement Conference. Plaintiff's letter should include a  
28 written itemization of damages and a settlement demand with a

1 brief explanation of why such a settlement is appropriate.  
2 Within 72 hours of receipt of Plaintiff's settlement offer, each  
3 Defendant must respond to it by letter advising Plaintiff of the  
4 terms upon which that Defendant is prepared to settle the case  
5 and, briefly, why those terms are appropriate.<sup>2</sup> **If following**  
6 **this exchange of settlement offers counsel for any of the parties**  
7 **believes that the case is not ripe for settlement and that**  
8 **proceeding with the conference as scheduled will not be a**  
9 **productive use of the Magistrate Judge's or the parties' time,**  
10 **counsel for the party or parties must immediately contact the**  
11 **courtroom deputy and arrange for a telephonic conference with the**  
12 **Magistrate Judge to discuss with all parties whether to proceed**  
13 **with the Settlement Conference as scheduled.** If the telephonic  
14 status conference cannot take place at least seven days before  
15 the Settlement Conference date, the parties still must comply  
16 with paragraph 11 below.

17 11. Assuming the Settlement Conference remains on calendar  
18 or the telephonic status conference is scheduled for less than  
19 seven days before the Settlement Conference date, then no later  
20 than 4 p.m. seven days before the scheduled date, each party must  
21 submit a Settlement Conference Statement directly to the chambers  
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24 <sup>2</sup> The Court expects the parties to exchange good-faith  
25 settlement offers. For the Plaintiff, this means offering to  
26 settle on terms less favorable than those Plaintiff reasonably  
27 could expect to achieve if Plaintiff prevailed at trial, taking  
28 into account Plaintiff's nonrecoupable costs of litigation. For  
each Defendant, this means offering to settle on terms less  
favorable than the Defendant reasonably could expect to achieve if  
Defendant prevailed at trial, taking into account Defendant's  
nonrecoupable costs of litigation.

1 of Magistrate Judge Rosenbluth (that is, to Roybal Courthouse,  
2 outside Room 1200, 12th Floor, Clerk's Office) or by fax to (213)  
3 894-5173. Each party must serve its statement upon the other  
4 party on the same day. The statements should not be filed with  
5 the Clerk of the Court. Each Statement must be double-spaced and  
6 should not exceed 10 pages.

7 The parties' respective settlement conference statements  
8 should include the following:

9 A. A brief statement of the facts of the case and  
10 of the claims and defenses remaining to be tried,  
11 including the statutory or other grounds upon which the  
12 claims are founded. This statement should identify the  
13 major factual and legal issues in dispute and cite any  
14 controlling authorities.

15 B. An itemized statement of the damages claimed  
16 and of any other relief sought.

17 C. A summary of the proceedings to date, including  
18 any case-management dates/deadlines already set by the  
19 District Judge and any critical discovery the parties  
20 have not yet exchanged, with an explanation of why not.

21 D. A history of past settlement discussions,  
22 offers, and demands, including the most recent settlement  
23 offers exchanged under paragraph 10 above. A copy of  
24 each party's letter sent under paragraph 10 above should  
25 be attached to the party's Settlement Conference  
26 Statement.

27 12. **Each party should also prepare a Confidential Addendum**  
28 **to Settlement Conference Statement, which must be delivered (or**

1 **faxed) directly to Magistrate Judge Rosenbluth only, along with**  
2 **the Settlement Conference Statement.** The Confidential Addendum

3 should not be filed with the Court or served upon the other  
4 parties. The Confidential Addendum should contain:

5 A. A forthright evaluation of the party's  
6 likelihood of prevailing on each of its claims and/or  
7 defenses.

8 B. The approximate amount of attorney's fees,  
9 time, and costs expended to date and an estimate of the  
10 fees, time, and costs to be expended for (i) further  
11 discovery, (ii) pretrial preparation, and (iii) trial.

12 C. The party's evaluation of the terms on which  
13 the other side is prepared to settle the case.

14 D. The party's evaluation of the terms on which  
15 the case could be settled fairly, taking into account the  
16 litigation position and settlement position of the other  
17 side.

18 13. If it does not appear to the Court from its review of  
19 the parties' settlement conference statements and confidential  
20 addenda that a Settlement Conference at this juncture is likely  
21 to result in settlement of the matter, the Court may order the  
22 Settlement Conference off calendar or defer it to a later  
23 juncture in the proceedings (for example, after a pending or  
24 anticipated dispositive summary-judgment motion has been decided  
25 or critical discovery has been exchanged).

26 14. At the commencement of the conference, counsel for each  
27 party should be prepared to make the equivalent of a brief  
28 opening statement and to respond to the Court's questions



1 regarding the relevant facts and law, in the presence of all  
2 parties and counsel. Counsel should have available for the  
3 Court's perusal copies of all key documents in the case as well  
4 as copies of all important witnesses' deposition transcripts.  
5 The parties should be prepared to address the following questions  
6 at the Settlement Conference. Thus, counsel are ordered to make  
7 a copy of this Order available to their client before the  
8 Settlement Conference and to discuss it with the client.

9           A. What are your goals in the litigation and what  
10 problems would you like to address in the Settlement  
11 Conference? What do you think are the opposing side's  
12 goals?

13           B. What issues need to be resolved, both legally  
14 and otherwise? What are the strengths and weaknesses of  
15 your case?

16           C. Do you understand the opposing side's view of  
17 the case? What is wrong with that view? What is right?

18           D. What are the points of agreement and  
19 disagreement between the parties?

20           E. What are the obstacles to settlement?  
21 Financial? Emotional? Legal?

22           F. Does settlement or further litigation better  
23 enable you to accomplish your goals?

24           G. Is there any additional information you need to  
25 adequately discuss settlement? Is so, how do you plan to  
26 obtain that information?

27           H. Are there any third parties who you think  
28 should be participating in this Settlement Conference?

1 15. Any failure of the trial attorneys, parties, or persons  
2 with settlement authority to attend the conference may result in  
3 sanctions, including the fees and costs expended by the other  
4 parties in preparing for and attending the conference. The  
5 failure of any party to timely submit a Settlement Conference  
6 Statement or Confidential Addendum in compliance with this Order,  
7 or otherwise comply strictly with this Order, may result in the  
8 Settlement Conference being ordered off calendar and sanctions  
9 being imposed.

10 16. If settlement between any or all parties is reached as  
11 a result of the Settlement Conference, it is the responsibility  
12 of counsel to immediately report the settlement to the District  
13 Judge's courtroom deputy clerk as well as to timely memorialize  
14 the settlement. See C.D. Cal. R. 16-15.7.

15 17. If the parties believe that a telephonic status  
16 conference before the settlement conference, with just the  
17 attorneys, would be helpful, they may request one from the  
18 Court's deputy clerk. It will take place no earlier than six  
19 days before the settlement conference, after the Court has had a  
20 chance to read the parties' submissions. Similarly, the Court  
21 may request such a conference.

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23  
24 DATED: May 5, 2021

  
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JEAN P. ROSENBLUTH  
U.S. MAGISTRATE JUDGE