

## **LOCAL RULES - CENTRAL DISTRICT OF CALIFORNIA**

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***L.R. 16-15 Policy Re Settlement & ADR.***<sup>1</sup> It is the policy of the Court to encourage disposition of civil litigation by settlement when such is in the best interest of the parties. The Court favors any reasonable means to accomplish this goal. Nothing in this rule shall be construed to the contrary. The parties are urged first to discuss and to attempt to reach settlement among themselves without resort to these procedures. It is also the policy of the Court that unless an Alternative Dispute Resolution (ADR) Procedure is selected by the parties, the judge assigned to preside over the civil case (the trial judge) may participate in facilitating settlement.

***L.R. 16-15.1 Proceedings Mandatory.*** Unless exempted by the trial judge, the parties in each civil case shall participate in one of the ADR Procedures set forth in this rule or as otherwise approved by the trial judge.

***L.R. 16-15.2 Time for Proceedings.*** Except as otherwise ordered by the Court, a Request: ADR Procedure Selection, signed by counsel for both sides, shall be filed with the parties' F.R.Civ.P. 26(f) report. Unless otherwise ordered, no later than forty-five (45) days before the Final Pretrial Conference, the parties shall participate in the ADR process approved by the Court.

***L.R. 16-15.3 Court-Ordered Proceedings.*** If the parties do not file a timely Request: ADR Procedure Selection, the trial judge may order the parties to participate in any of the ADR Procedures set forth in this rule.

### ***L.R. 16-15.4 Suggested ADR Procedures***

ADR PROCEDURE NO. 1 - The parties shall appear before the district judge or magistrate judge assigned to the case for such settlement proceedings as the judge may conduct or direct.

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<sup>1</sup> 16-15 et seq. amended, effective 12/1/11.

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ADR PROCEDURE NO. 2 - The parties shall appear before a neutral selected from the Court's Mediation Panel.

ADR PROCEDURE NO. 3 - The parties shall participate in a private dispute resolution proceeding.

***L.R. 16-15.5 Requirements for ADR Procedures.***<sup>1</sup> With the exception of subsection (a) which applies only to settlement proceedings before a district judge or magistrate judge, the following requirements shall apply to all ADR Procedures unless otherwise ordered by the settlement judge or the neutral:

(a) **STATEMENT OF CASE** - The parties shall submit in writing to the settlement judge, *in camera* (but not file), a confidential settlement statement (not to exceed five (5) pages) setting forth the party's statement of the case and the party's settlement position, including the last offer or demand made by that party and a separate statement of the offer or demand the party is prepared to make at the settlement conference. This confidential settlement statement shall be delivered to the settlement judge at least five (5) days before the date of the conference.

(b) **APPEARANCE BY PARTY** - Each party shall appear at the settlement proceeding in person or by a representative with final authority to settle the case, which in the case of lawsuits brought by or against the United States or any of its agencies as a party, shall involve the attendance of an attorney charged with responsibility for the conduct of the case and who has final settlement authority as provided by his or her superiors. A corporation or other non-governmental entity satisfies this attendance requirement if represented by a person who has final settlement authority and who is knowledgeable about the facts of the case. Representatives of insurers with decision-making authority are required to attend settlement proceedings, unless personal attendance is excused by the settlement officer. At the discretion of the settlement officer, and only with the settlement officer's express authorization, parties residing outside the District

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<sup>1</sup> 16-15.5(b) amended, effective 1/1/10.

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may have a representative with final settlement authority available by telephone during the entire proceeding, in lieu of personal appearance.

(c) APPEARANCE BY LEAD TRIAL ATTORNEY - Each party shall be represented at the settlement proceeding by the attorney who is expected to try the case, unless excused by the settlement officer.

(d) PREPARATION BY PARTY - Each party shall have made a thorough analysis of the case prior to the settlement proceeding and shall be fully prepared to discuss all economic and non-economic factors relevant to a full and final settlement of the case.

***L.R. 16-15.6 Optional Requirements for ADR Procedures.*** In settlement proceedings before a district judge or magistrate judge, any of the following procedures may be required:

- (a) An opening statement by each counsel.
- (b) With the agreement of the parties, a “summary” or “mini-trial,” tried either to the settlement officer or to a mock jury.
- (c) Presentation of the testimony, summary of testimony or report of expert witnesses.
- (d) A closing argument by each counsel.
- (e) Any combination of the foregoing.

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***L.R. 16-15.7 Report of Settlement.*** If a settlement is reached, counsel shall (a) immediately report the settlement to the trial judge's courtroom deputy clerk; and (b) timely memorialize the terms of the settlement.

***L.R. 16-15.8 Confidentiality.*** This rule applies only to ADR Procedure No. 2, mediations conducted by the Court's Mediation Panel.

(a) CONFIDENTIAL TREATMENT - Except as provided in subsection (b) of this local rule, this Court, the mediator, all counsel and parties, and any other persons attending the mediation shall treat as "confidential information" the contents of the written mediation statements, any documents prepared for the purpose of, in the course of, or pursuant to the mediation, anything that happened or was said relating to the subject matter of the case in mediation, any position taken, and any view of the merits of the case expressed by any participant in connection with any mediation. "Confidential information" shall not be:

- (1) disclosed to anyone not involved in the litigation;
- (2) disclosed to the assigned judges; or
- (3) used for any purpose, including impeachment, in any pending or future proceeding in this Court or any other forum.

(b) LIMITED EXCEPTIONS TO CONFIDENTIALITY - This rule does not prohibit:

- (1) disclosures as may be stipulated by all parties and the mediator;

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(2) disclosures as may be stipulated by all parties, without the consent of the mediator, for use in a subsequent confidential ADR or settlement proceeding;

(3) a report to or an inquiry by the ADR Judge regarding a possible violation of policies and procedures governing the ADR program;

(4) the mediator from discussing the mediation process with the Court's ADR staff, who shall maintain the confidentiality of the process;

(5) any participant or the mediator from responding to an appropriate request for information duly made by persons authorized by the Court to monitor or evaluate the Court's ADR program;

(6) disclosures as are required by General Order, related ADR forms, and as otherwise required by law; or

(7) in an action or proceeding to enforce a settlement, the admission of a written settlement agreement or a settlement placed on the record, reached as a result of mediation.

(c) **CONFIDENTIALITY AGREEMENT** - The mediator may ask the parties and all persons attending the mediation to sign a confidentiality agreement on a form provided by the Court and available on the court website. The confidentiality provisions of this section apply regardless of whether a confidentiality agreement is signed.

(d) **SCOPE** - Nothing in this rule is intended to limit any applicable privilege or rule of evidence designed to protect mediation confidentiality, and any such broader protection shall control if applicable.

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***L.R. 16-15.9 Rule Non-Exclusive.*** Nothing in this rule shall preclude or replace any settlement practice used by any district judge or magistrate judge of the Court. The provisions of this rule are not exclusive and nothing in this rule shall preclude any district judge or magistrate judge of the Court from dispensing with any provision of this rule as to any case or category of cases, as the judge, in his or her discretion, determines to be appropriate.

### **IV. PARTIES**

#### **F.R.CIV.P. 17. PLAINTIFF AND DEFENDANT; CAPACITY; PUBLIC OFFICERS**

#### **F.R.CIV.P. 18. JOINDER OF CLAIMS**

#### **F.R.CIV.P. 19. REQUIRED JOINDER OF PARTIES**

***L.R. 19-1 Fictitiously Named Parties.*** No complaint or petition shall be filed that includes more than ten (10) Doe or fictitiously named parties.

***L.R. 19-2 Misjoinder.*** No complaint or petition alleging violation of copyright, patent or trademark shall contain causes of action of different owners claiming violation of different copyrights, patents or trademarks, unless the complaint or petition is accompanied by a declaration of counsel setting forth grounds showing that the interests of justice will be advanced, and a multiplicity of actions avoided, by such joinder.

#### **F.R.CIV.P. 20. PERMISSIVE JOINDER OF PARTIES**

#### **F.R.CIV.P. 21. MISJOINDER AND NONJOINDER OF PARTIES**