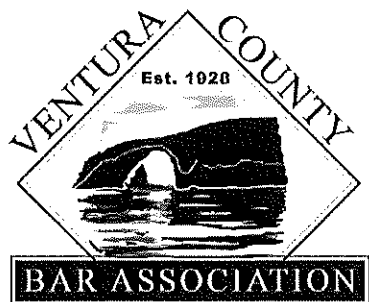




Barristers – Bridging the Gap
January 21, 2023

Session 5

Judge DeNoce:
MSCs, Jury Trials, and
His New Role as
Presiding Judge

REMOTE MANDATORY SETTLEMENT CONFERENCE

Status Hearing: Date: _____
Time: _____
Dept: _____

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Continuation of Item 1 is attached.

2. The _____ agree(s) to accept said sum as payment in full of all of their claims, known or unknown, arising from the events described in the complaint and/or cross-complaint with the knowledge that they will be barred from proceeding against the _____ in the future.

3. Each side hereby expressly waives any and all rights under *Civil Code* section 1542, which provides as follows:

Section 1542. General Release. A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

4. Each party will bear their own costs and attorney fees. Plaintiff(s) to be responsible for the payment of any outstanding medical bills and liens.

5. The parties and counsel request that the court retain jurisdiction over this settlement to enforce it and agree that this settlement will be enforceable pursuant to *Code of Civil Procedure* section 664.6 which provides as follows:

- (a) If parties to pending litigation stipulate, in a writing signed by the parties outside of the presence of the court or orally before the court, for settlement of the case, or part thereof, the court, upon motion, may enter judgment pursuant to the terms of the settlement. If requested by the parties, the court may retain jurisdiction over the parties to enforce the settlement until performance in full of the terms of the settlement.*
- (b) For purposes of this section, a writing is signed by a party if it is signed by any of the following:*
- (1) The party.*

1 (2) An attorney who represents the party.
2 (3) If the party is an insurer, an agent who is authorized in
3 writing by the insurer to sign on the insurer's behalf.
4 (c) Paragraphs (2) and (3) of subdivision (b) do not apply in
5 a civil harassment action, an action brought pursuant to the
6 Family Code, an action brought pursuant to the Probate
7 Code, or a matter that is being adjudicated in a juvenile court
8 or a dependency court.
9 (d) In addition to any available civil remedies, an attorney
10 who signs a writing on behalf of a party pursuant to
11 subdivision (b) without the party's express authorization
12 shall, absent good cause, be subject to professional
13 discipline.

14 (Code of Civil Procedure § 664.6)

15 In the event any party fails to comply with the terms of this settlement, to compel
16 compliance, a motion to enforce this settlement agreement must be filed with the trial
17 court. The party obtaining enforcement of this settlement pursuant to *Code of Civil*
18 *Procedure* section 664.6 shall be entitled to reasonable attorney's fees. The parties
19 further agree that this settlement agreement may be introduced into evidence in any
20 subsequent proceeding to enforce its terms. The parties acknowledge that this
21 agreement is exempt from the confidentiality provisions of *Evidence Code* section
22 1152(a).

23 6. This is the sole settlement agreement between the parties. There are no other
24 representations or warranties by the parties. Any verbal discussions between the parties
25 are not part of this settlement unless incorporated in writing herein.

26 7. The parties acknowledge that they requested and consented to conduct the
27 Mandatory Settlement Conference remotely by way of Zoom and agree to be bound by
28 the settlement that was reached to the same extent as if the settlement were placed on
the record, in person, in open court. The "REMOTE MANDATORY SETTLEMENT
CONFERENCE PROCEDURES; ACKNOWLEDGEMENT OF RECEIPT &
STIPULATION" form signed by the parties and counsel is incorporated by reference
herein.

1 8. Counsel for plaintiff(s) and defendant(s) represent that they verbally explained the
2 terms of this settlement to their clients and are satisfied that they understand and accept
3 such terms.

4 9. As a result of the settlement in this case, counsel for _____ will ☐
5 File a Notice of Settlement; ☐ File a Dismissal ☐ *with* or ☐ *without* prejudice.

6 10. The parties, counsel, and insurance adjusters or guardians if any, agree that this
7 settlement agreement may be executed in two or more counterparts, that electronic
8 and/or digital signatures and dates can be used and will be binding on the signatories
9 thereto. These signatures will be treated in all respects as having the same force and
10 effect as original signatures.

11
12 DATED: _____

13
14 _____
(Print Name)

(Signature of PLAINTIFF)

15
16
17 _____
(Print Name)

(Signature of Attorney for PLAINTIFF)

18
19 _____
(Print Name)

(Signature of DEFENDANT)

20
21 _____
(Print Name)

(Signature of Attorney for DEFENDANT)

22
23
24 _____
(Print Name)

(Signature of _____)

25
26 _____
(Print Name)

(Signature of _____)

27
28 _____
(Print Name)

(Signature of _____)

1 **Judicial Certification:**

2 As the Superior Court Judge who presided over the remote MSC in this case by way of
3 Zoom, I certify that I have verbally verified that each counsel and party above signed this
4 document and verbally affirmed that they agreed to the terms stated herein and that this
5 is a judicially enforceable settlement pursuant to CCP section 664.6. The court verbally
6 discussed the terms of this settlement by way of Zoom with the signatories to this
7 agreement and was satisfied that they understood the terms stated herein and agreed to
8 be bound by said terms.

9 Dated: _____

Judge Kevin G. DeNoce

10 **Item 1. [Continued]**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar Number and Address):

TELEPHONE NO.:

ATTORNEY FOR (Name):

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF VENTURA**

Plaintiff(s),	)	Case No. _____
	)	
vs.	)	REMOTE MANDATORY SETTLEMENT CONFERENCE PROCEDURES; ACKNOWLEDGEMENT OF RECEIPT & STIPULATION
	)	
Defendant(s).	)	Mandatory Settlement Conference Date & Time: _____
	)	

This case has been ordered to a Mandatory Settlement Conference ("MSC") before Judge Kevin G. DeNoce. Due to the Coronavirus pandemic, the Ventura Superior Court is allowing MSCs to be conducted remotely through the Zoom platform ("Zoom"). By signing this form, providing it to the court, and opposing counsel/parties, you are giving notice of your request and intent to appear remotely by way of Zoom. This document sets forth the policies and procedures governing MSCs conducted by Zoom.

Due to technological constraints, the court cannot conduct an MSC in which some participants appear in person while others appear by Zoom: all participants must appear by Zoom in order for the MSC to be conducted by Zoom. Any questions or issues regarding these policies or procedures must be brought to the attention of the MSC Judge before commencement of the MSC. **This form must be completed by all parties who intend to participate in an MSC conducted by Zoom and be filed with the court at least 5 days prior to the MSC in conjunction with your Settlement Conference Statement. (Cal. Rules Ct., Rule 3.1380(c).)**

1. If you have not previously used Zoom, it is your responsibility to learn how to use Zoom. The court does not provide advice or technical assistance as to how to use Zoom. In order to appear by Zoom, you will need to have a camera and audio feed on the computer or device you are using. Tutorials on how to use Zoom can be found at: https://learning.zoom.us/learn?utm_source=support&utm_medium=banner&utm_campaign=Start_learning
2. "Trial counsel, parties, and persons with full authority to settle the case must personally attend the conference, unless excused by the court for good cause. If any consent to settle is required for any reason, the party with that consensual authority must be personally present at the conference." (Cal. Rules of Court, rule 3.1380(b)). All parties and their representatives who will be participating in an MSC conducted by Zoom must be listed on this form with their email address and phone number. The Court will use the email addresses listed on this form to send out Zoom conference invitations on the date of the MSC. The Court will use the phone numbers listed on this form to communicate with participants during the MSC, if necessary.

3. Participants to an MSC conducted by Zoom should join the Zoom conference 5 minutes prior to the scheduled MSC by clicking on the link emailed to you by the Court. Upon entering the Zoom forum, you will be placed in a waiting room until admitted by the Court which will act as the Host. At the outset of the conference, all participants will be admitted together and a brief joint discussion with all parties will take place. Thereafter, the court will engage in separate discussions with each side by using the Zoom breakout room and/or waiting room functions.
4. Participants in an MSC conducted by Zoom shall be alone in a quiet room or private area unless the court expressly approves the presence of another person such as an interpreter or support person. Cell phones shall be silenced and not used during the MSC unless necessary to communicate with the court in the event of a lost connection. Mute your Zoom audio when you are not speaking. Only parties, their counsel and their insurance representatives are allowed to view and listen to an MSC. No other person can view or listen to the MSC except as explicitly authorized by the court.
5. Is there a request to have the court provide an interpreter for any MSC participant?
Yes: ☐ No: ☐
If an interpreter is being requested, please provide the name(s) of the person(s) who need the assistance of an interpreter:
_____, and the language
needed: _____. (Persons needing an interpreter should be in
a separate private room during the MSC.)
6. Zoom is not a court created or provided platform. The court makes no warranties or guarantees regarding the confidentiality, privacy, or integrity of Zoom proceedings. If you have any questions regarding the confidentiality, privacy, or integrity of Zoom proceedings, you should conduct your own research at <https://zoom.us/> or contact Zoom representatives directly.
7. **RECORDING OF ANY PORTION OF THE MSC IS PROHIBITED.** No photography, recording or broadcasting of all or any portion of an MSC is permitted, including by screenshot, audio or video recording, or otherwise. (See Cal. Rules of Court, rule 1.150; Pen. Code § 632.) Participants who appear by Zoom are prohibited from forwarding the Zoom invitation or disclosing the Zoom meeting identification code to any non-participant.
8. The MSC is subject to the provisions of Evidence Code section 1152 and is not a mediation or otherwise subject to the rules of mediation confidentiality set forth in Evidence Code sections 703.5 and 1119, et seq.
9. The MSC Judge will not act as the Trial Judge and may conduct the MSC even if the MSC Judge is otherwise disqualified. (Code Civ. Proc. § 170.4(a)(6).)
10. The MSC Judge will conduct the MSC as he or she considers appropriate, including discussing all aspects of the case candidly with counsel and/or the parties and may have substantive discussions with one party (and counsel) without the presence of other parties (and counsel) or with counsel alone without their clients being present. If a party is represented by counsel, the MSC Judge will not meet, or have substantive discussions about the case, with that party alone without the express permission of the party and counsel.

11. The MSC Judge is and will remain impartial but may review the probable evidence, offer evaluations as to the strength or admissibility of probable evidence, including regarding damages, and express opinions about the applicable law, legal arguments, the probable outcome of the case and appropriate terms for settlement.
12. The techniques employed by the MSC Judge are designed to facilitate and encourage settlement, but no party is obligated to settle the case. Nothing said or done by the MSC Judge during, or in connection with, the MSC is intended to pressure or coerce any party or counsel to settle the case and should not be so interpreted. The decision to settle or not is entirely the prerogative of the parties and their counsel.
13. The MSC Judge will not communicate with the Trial Judge concerning the substance of the case or of the MSC but may inform the Trial Judge if the case settles or not.
14. This Stipulation may be executed in two or more counterparts and will be binding on the signatories thereto. As stated above, all participants must agree to participate by Zoom in order for the MSC to be conducted by Zoom. This Stipulation is signed when a signature or e-signature is delivered by facsimile, e-mail or other electronic medium. These signatures will be treated in all respects as having the same force and effect as original signatures.
15. **Counsel must convey the above rules to their clients and any other agents participating in an MSC conducted by Zoom and ensure compliance with these rules.**

RECEIPT ACKNOWLEDGED AND SO STIPULATED:

Date: _____

Name of Party

Print Name

- ☐ Attorney ☐ Other
☐ Plaintiff ☐ Defendant
☐ Cross-Complainant
☐ Cross-Defendant

Signature

Email for Zoom Invite: _____

Phone number: _____

RECEIPT ACKNOWLEDGED AND SO STIPULATED:

Date: _____

Name of Party

Print Name

- ☐ Attorney ☐ Other
☐ Plaintiff ☐ Defendant
☐ Cross-Complainant
☐ Cross-Defendant

Signature

Email for Zoom Invite: _____

Phone number: _____

RECEIPT ACKNOWLEDGED AND SO STIPULATED:

Date: _____

Name of Party

Print Name

- ☐ Attorney ☐ Other
☐ Plaintiff ☐ Defendant
☐ Cross-Complainant
☐ Cross-Defendant

Signature

Email for Zoom Invite: _____

Phone number: _____

RECEIPT ACKNOWLEDGED AND SO STIPULATED:

Date: _____

Name of Party

Print Name

- ☐ Attorney ☐ Other
☐ Plaintiff ☐ Defendant
☐ Cross-Complainant
☐ Cross-Defendant

Signature

Email for Zoom Invite: _____

Phone number: _____

RECEIPT ACKNOWLEDGED AND SO STIPULATED:

Date: _____

Name of Party

Print Name

- ☐ Attorney ☐ Other
☐ Plaintiff ☐ Defendant
☐ Cross-Complainant
☐ Cross-Defendant

Signature

Email for Zoom Invite: _____

Phone number: _____

RECEIPT ACKNOWLEDGED AND SO STIPULATED:

Date: _____

Name of Party

Print Name

- ☐ Attorney ☐ Other
☐ Plaintiff ☐ Defendant
☐ Cross-Complainant
☐ Cross-Defendant

Signature

Email for Zoom Invite: _____

Phone number: _____

Emergency Form (rev. 12/30/21)