FILED

JAN 31 2002

LARRY W. PROPES, CLERK
FLORENCE, S.C.

IN THE UNITED STATES DISTRICT COURT)
) STANDING ORDER TO
FOR THE DISTRICT OF SOUTH CAROLINA) CONDUCT MEDIATION

4:02-mc-5001-25

Mediation is to be scheduled and completed in all cases, including those cases involving unrepresented parties. Mediation shall be completed by the date indicated in the scheduling order. Upon completion of the mediation, counsel shall advise the Court in writing only that the mediation has occurred, the date of the mediation, whether the case was settled in whole or in part, and whether a trial is required.

The parties should select a mediator consistent with Local Rule 16.06 DSC. A roster of certified mediators can be retrieved from the district court's website at **www.scd.uscourts.gov** or from The Clerk of Court. Any questions concerning selection of a mediator or the mediation process generally should be referred to the Court's ADR Program Director, Danny Mullis at (843) 579-1435.

All parties and their lead trial counsel, having full settlement authority[1], are required to attend the mediation in person unless excused by the Court for good cause shown. Insurer representatives with decision-making authority also are required to attend in person, unless excused by the Court, if their agreement would be necessary to achieve a settlement. Every person who is excused from attending in person must be available to participate by telephone, unless otherwise ordered. At the mediation, parties, their insurer representatives and their primary trial counsel should be prepared to participate in a mutual, good faith effort to negotiate a fair and reasonable settlement. All necessary discovery should be completed prior to mediation. Lack of discovery or settlement authority is no excuse for failure to appear and/or participate. See Local Rule 16.09 DSC.

This order has been mailed to all counsel of record and to all *pro se* parties. Counsel are responsible for notifying and ensuring the presence of parties and insurer representatives as described above. **If a case has been mediated previously, counsel shall notify the Court promptly in writing.**

Communications made in connection with or during the mediation are confidential and protected by Federal Rule of Evidence 408 and Federal Rule of Civil Procedure 68. If a settlement is not reached at the mediation, settlement discussions are neither admissible at trial nor to be disclosed to the presiding judge, see Local Rules 16.08(C) and 16.10(H) DSC, except as allowed by Local Rule 26.05(F) DSC.

If any reason exists why any party or counsel should not participate in this mediation, the court is to be advised of these reasons in writing.

AND IT IS SO ORDERED.

Terry L. Wooten
TERRY L. WOOTEN
UNITED STATES DISTRICT JUDGE

Florence, South Carolina
January 8, 2002

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[1] "Full settlement authority' for the defendant means an individual who can decide to offer the plaintiff a sum up to the existing demand of the plaintiff or the policy limits of any applicable insurance policy, whichever is less. 'Full settlement authority' for the plaintiff means the plaintiff himself or herself or a representative of the plaintiff who can make a binding decision on behalf of the plaintiff or plaintiffs."