I.A.R. 49. Appellate Settlement Conference

Idaho Appellate Rule 49. Appellate Settlement Conference.

(a) Submission for Conference. Upon request, pursuant to a written agreement of all parties, a civil appellate case or an appeal from the Industrial Commission may be submitted for consideration for an appellate settlement conference before a person who shall be known as the Conference Judge, and who shall be selected by the parties from the list of settlement justices and judges maintained by the Administrative Director of the Courts. The parties should direct the request for a settlement conference in writing to the Clerk of the Supreme Court. The Clerk shall then enter an order suspending the appeal for 49 days, after which the appeal process shall resume. The settlement conference shall be held at a place near the court from which the civil case is appealed, at a place near the place of employment in an Industrial Commission case, or at any other place agreed upon by the parties and the Conference Judge. The facility in which the conference is held shall be determined by the Conference Judge. In advance of the settlement conference, all parties shall deliver to the clerk of the Supreme Court, for submission to the Conference Judge, a settlement statement in a form prescribed by the Supreme Court. The parties are responsible for the payment of costs and for scheduling the settlement conference at a time convenient to all parties and the Conference Judge. The Conference Judge shall not participate in the determination of the appeal.

(b) Settlement Statement. The written settlement statement of each party, in the form prescribed by the Supreme Court, shall be a confidential statement which shall not be filed in the case file and shall be disclosed only to the Conference Judge. In no event shall the settlement statement, or the contents thereof, be disclosed to opposing counsel, and upon conclusion of the conference negotiations, it shall be destroyed by the Conference Judge. The Conference Judge shall use the settlement statement only for the purpose of acquainting the judge with the appeal, the positions of the parties and the possibility of settlement.

(c) Settlement Conference. The settlement conference shall be an informal confidential meeting presided over by the Conference Judge. The agenda and sequence of presentations shall be in the discretion of the Conference Judge who may deliver to the parties an agenda in advance of the conference. The Conference Judge may request additional information not contained in the settlement statements. All parties to the appeal, or representatives of the parties empowered to enter into a binding settlement agreement, shall attend the settlement conference with their attorney. Provided, if the client or the client's representative is not able to be present, the attorney must be able to have immediate telephone contact with the client or the client's representative, who has authority to approve a settlement. The attorney who will argue the case on appeal, or the attorney who represented the client in the trial of the action, shall appear at the settlement conference. There shall be no recording of the discussions at the settlement conference, but the attorneys for the parties may make written notes. The seating at the settlement conference shall be in an informal manner, preferably around a table, and the conference shall not be conducted as a formal hearing. A settlement conference may be continued from time to time by agreement of all parties and the Conference Judge. The initial settlement conference, or any subsequent conference, may be held by conference telephone call when agreed upon by all parties and the Conference Judge.

(d) Role of Conference Judge. There shall be no duty upon the Conference Judge to make a recommendation for settlement of the appeal. The role of Conference Judge is to act as a mediator to assist the parties and their counsel to come to an agreement.

(e) Settlement Agreement. If the conference results in a settlement, the parties immediately will execute a settlement agreement and will file a stipulation for dismissal of the appeal with the Supreme Court.

(f) Confidentiality. The settlement conference and all documents prepared by the parties or the Conference Judge shall be confidential. Upon settlement of the appeal, or upon the determination by the Conference Judge that there can be no settlement, the Conference Judge shall destroy all records of the settlement conference including the settlement statements of the parties and the notes or other documents prepared by the Conference Judge. The Conference Judge shall not discuss the meeting with any other person and any written or oral statements made or submitted by an attorney or a party at the settlement conference shall not be admissible in evidence in any judicial proceeding for any purpose and shall not be subject to discovery.

(Adopted effective October 26, 1989; amended March 27, 1997; effective March 27, 1997; amended January 4, 2010, effective February 1, 2010.)

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