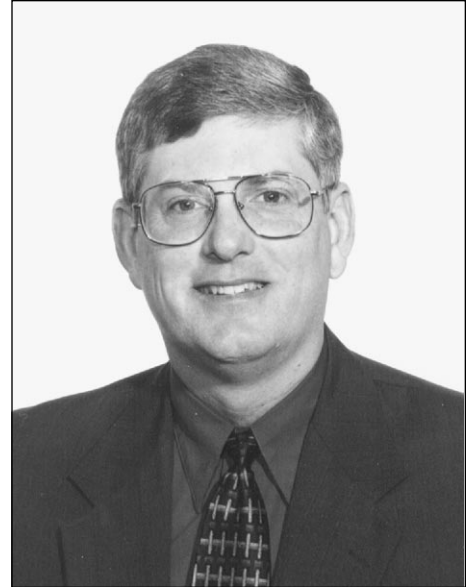


# Circuit Court to Hold Settlement Week

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At the conclusion of last month's column I mentioned that a Settlement Week for civil cases has been scheduled for the first week in October. Our objective is obvious: to settle as many cases as possible in an effort to reduce the pending civil docket. I promised additional information regarding the management of the program. Here are the particulars.

One reason we wanted to hold Settlement Week this year is that we have to create a 14th general jurisdiction docket in late December. You may recall from previous columns that the general jurisdiction and family divisions will each increase by one judgeship in January. Many reassignment notices will be required with the creation of a new docket; therefore we'd prefer to begin with a significantly reduced pending civil docket to lessen the time and cost required to create the new docket.

More than 600 civil cases will be scheduled for one-hour mediation sessions on the afternoon of Wednesday, October 2 and all day on Thursday and Friday, October 3 and 4. Most Type C and Type N civil cases over 13 months old will be included, as will medical malpractice cases older than two years. Each party will receive a Notice and Order for Mandatory Settlement Conference. The notices will be mailed this month.

All civil cases described above will be included in the mix, even if they have not gone through case evaluation. About 100 lawyers – 35 each day – will volunteer their time to serve as facilitators. We will attempt to match facilitators to cases based upon their legal expertise. The volunteer lawyers will facilitate discussions to help the parties reach mutually agreeable settlements.

The parties to each case must complete a Joint Settlement Statement by a specific date that will be clearly marked on the statement. Each statement will be provided to the applicable facilitator prior to the conference. The statement will include information relative to the claims made by each party, uncontested facts, issues of law, case evaluation results, and the status of settlement discussions to date, if any.

Please be advised that sanctions will be assessed if the Joint Settlement Statement is not filed in a timely manner. A

\$150 fee will be assessed to each party for the untimely filing of the statement. A \$500 fee will be assessed to each party for failure to file the statement.

The parties will not know to which facilitator their case has been assigned until they check in on the morning or afternoon when their settlement conference is scheduled. Attorneys and their clients are encouraged to be present in the Jury Assembly Room at least 15 minutes prior to the assigned time of their conference. Please check in with staff who will direct you to the room in which the conference will be conducted.

Facilitators will have received the Joint Settlement Statement prior to the settlement conference and will be familiar with the facts and issues of the case. At the outset of the conference, the facilitator will explain the process and his or her role. Each party will be given the opportunity to make a brief opening statement. The conference will ensue with the parties engaging in dialogue, facilitated by the volunteer lawyer. The facilitator will have the right to speak with any participant privately to explore possible proposals that the party may be reluctant to discuss with the opposing party. The facilitator will honor any requests made by a party that information or proposals discussed privately remain confidential unless the requesting party approves the release of that information.

When a mutually satisfactory agreement is reached, the facilitator will convene the parties and review the primary elements of the agreement. The agreement will be memorialized in writing. The parties will be sent to a courtroom where a judge will be available to enter the agreement on the record.

As mentioned earlier, conference sessions will be one hour in duration, although a conference may continue beyond the allotted time if progress is being made toward successful resolution of the case. Parties who do not reach settlement should expect their case to be immediately set for trial. Discussions during a settlement conference will be considered confidential and will not be admitted as evidence if the case proceeds to trial.

*(continued)*

Attorneys and litigants should understand that their participation in Settlement Week is mandatory if their case is included for settlement conference. Attorneys must bring their client(s) to the conference, or someone with the authority to settle the case. Attorneys are encouraged to prepare for the conference by discussing settlement options with his/her client in advance of the conference. Motions to exclude cases from Settlement Week will be heard by the Honorable Steven N. Andrews (odd-numbered cases per the ten-digit case number) and the Honorable Wendy L. Potts (even-numbered cases).

Please also be advised that failure to appear for the settlement conference is sanctionable. This applies to both the attorney and his/her client(s). Judge Andrews and Judge Potts will determine the sanctions. Cases in which a

party fails to appear for conference will be assigned to either Judge Andrews or Judge Potts for sanction in accord with the same formula used for assigning motions for exclusion from Settlement Week.

That's the nuts and bolts of Settlement Week. Please note that the general jurisdiction motion call on Wednesday, October 2 will be unaffected by Settlement Week. In a previous article I had reported that the general jurisdiction motion call would be canceled. The judges have decided to delay the commencement of Settlement Week until the afternoon of October 2, therefore the motion call that morning will occur as scheduled. If you have any questions regarding Settlement Week, please contact the Case Management Office at 248-858-0353.

Until next month...