

San Francisco Superior Court

Rule 4.3 - Early Settlement Program

- A.** The Early Settlement Conference Program is available as one of the Court's alternative dispute resolution programs.
- B.** Complete information regarding the program including procedures, method of case selection and qualification and selection of panelists may be reviewed at the San Francisco Law Library, BASF and the Court's Alternative Dispute Resolution Administrator's office.
- C.** The Early Settlement Program endeavors to bring selected cases to an early settlement conference before a panel of two attorneys experienced in the area of the law involved. Members of the panels are deemed persons presiding at a quasi-judicial proceeding within the meaning of the Evidence Code § 703.5.
- D.** Unlimited jurisdiction cases which are not ordered to mandatory judicial arbitration or do not stipulate in writing to voluntary civil mediation, must participate in the ESP.
- E.** Attendance at the settlement conference by the attorney who will try the case is mandatory.
- F.** Attendance at the settlement conference by the parties is mandatory. In the case of an insured principal, the authorized representative of the insurer (other than counsel) must attend and have settlement authority. In any professional negligence case in which the defendant retains the right to refuse settlement, participation of that defendant in the settlement conference is mandatory.
- G.** The Court may exempt a case from the ESP upon submission of a written application to the Civil Case Management Department 610, with a copy to all parties and BASF, which recites facts demonstrating that the ESP would not reduce the probable time and expense necessary to resolve the dispute.
- H.** Parties ordered to the ESP may be excused from that program upon filing a written stipulation to mediate with the Court's Alternative Dispute Resolution Administrator and delivering a copy to the BASF.
- I.** The parties must undertake substantial good faith settlement negotiations prior to the settlement conference. These negotiations must include a written demand by the plaintiff no later than two (2) weeks prior to the conference and a written offer by the defendant no later than one (1) week prior to the conference. These must be followed by a meet and confer session.
- J.** Plaintiff must immediately notify the BASF Coordinator in writing (copying all parties) of any settlement or dismissal of the case which occurs prior to the scheduled date of the settlement conference.

K. All parties assigned to the ESP are required to prepare and submit a settlement conference statement. The statement must be sent by mail, hand-delivery or fax, insuring that the panelist(s), the BASF and all other include a proof of service.

L. The settlement conference statement must contain:

1. a written factual statement describing the case and all relevant legal issues and contentions;
2. information of sufficient scope and quality to enable the panelists to evaluate the various positions and thereby conduct effective settlement discussions;
3. an itemized statement of claimed special and future damages;
4. supporting data in the form of relevant excerpts. A hospital summary sheet rather than the entire record is acceptable;
5. an itemized statement of claimed injuries and residuals with the latest medical reports in injury cases;
6. a statement setting forth the latest demands and offers between the parties;
7. a copy of the complaint, the cross complaint and the answer.

M. The ESP is part of the settlement calendar of this Court. Failure to prepare for, appear at, or participate in good faith in any of the conference procedures as required by these rules may constitute an unlawful interference with the proceedings of the Court and may be subject to sanctions.

N. Plaintiff must immediately notify the BASF/ESP coordinator and all counsel in writing when a case is settled or otherwise disposed after the settlement conference. The notice must include the date of the settlement or other disposition.

O. In addition to the settlement conference statement, the parties must submit copies of the following to the BASF/ESP coordinator to the extent relevant to the merits or otherwise to settlement:

1. all Court orders to the parties;
2. any appeal, or writ contesting a Court order;
3. any release of the parties from participating in the program;
4. any stipulations.

P. The panelists must notify the Civil Case Management Judge of any violations of the provisions of Rule 4.3. The Civil Case Management Judge may impose appropriate sanctions.

Q. BASF must provide the Court with quarterly reports regarding the disposition of all cases referred to the ESP by the Court. For each case, the report must include the date of the conference and whether the case settled at the conference. The report must also document the disposition of any case referred by the Court which did not complete a settlement conference. These reports must be available for review at BASF and the Court's Alternative Dispute Resolution Administrator.