

AUG 11 2004

Cameron S. Burke
Clerk, Idaho

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

SHERRY R. HUBER,)
)
 Plaintiff,)
)
 v.)
)
 IDA-WEST ENERGY COMPANY, et al.,)
)
 Defendants.)
 _____)

Case No. CV 03-527-S-BLW
ORDER RE:
SETTLEMENT CONFERENCE

The above-entitled action has been referred to this Court by Chief United States District Judge B. Lynn Winmill for the purpose of conducting a settlement conference. Having reviewed the matter and being fully advised in the premises;

IT IS HEREBY ORDERED:

1. The settlement conference previously scheduled to be held on September 10, 2004 is rescheduled to commence on **October 14, 2004 at 9:30 A.M.** at the United States Courthouse, Room 518, in Boise, Idaho before the undersigned Chief United States Magistrate Judge.
2. Each party shall prepare and submit on or before **October 7, 2004**, a candid summation of its assessment of the strengths of its case and the strengths of the opposing party's case. The **confidential** summation shall be submitted *in camera* to Judge Boyle at 550 W Fort St, Boise, ID 83724. Further, the Court requests that each party set forth specific reasons why the case should

settle. Except in unusual cases, the summation should not exceed ten pages. The summation should include a review of the facts, provable damages, the party's assessment of its probability of prevailing on any disputed facts, and a brief discussion of any legal authority the party contends would materially enhance its position at trial. The settlement brochure should include a history of past settlement negotiations and the reasonable and realistic settlement value, if any, the party presently places on the litigation. See attached questionnaire for requested information. *Failure to timely submit the summation may result in the settlement conference being vacated.*

3. All parties shall be **personally present** and must be represented by lead or chief counsel authorized to participate in settlement negotiations. In the case of businesses, corporations, governmental entities, etc., a representative for every party with **full settlement authority** must be **personally present** at the settlement conference. If any of the parties are appearing or defending the action under an insurance agreement, an insurance company representative **fully authorized** to settle the case must be **personally present** at the settlement conference.

In sum, all parties in this matter necessary to conduct an effective settlement conference shall be personally represented by someone in attendance at the settlement conference with full settlement authority.

4. Counsel shall be knowledgeable about the facts of the case and be prepared to candidly discuss the same with the settlement judge.

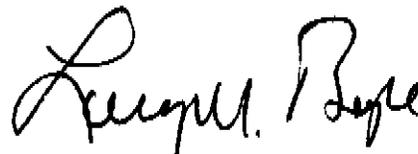
5. Attachment "A" is a sample outline of the usual agenda followed by the undersigned Judge.

6. All information provided to and communications with the settlement judge shall be held in confidence. All written material submitted will be returned to the submitting party upon termination of the settlement proceedings.

7. All oral statements, written documents, or other materials considered during the settlement procedure shall be held in confidence and may not be used in any way against any party to this litigation.

8. Pursuant to D. Id. L. Civ. R. 16.4(b), none of the matters or information discussed during the conference will be communicated to the trial judge.

SO ORDERED this 11th day of August, 2004.



LARRY M. BOYLE
CHIEF MAGISTRATE JUDGE
UNITED STATES DISTRICT COURT

SETTLEMENT CONFERENCE AGENDA

- 9:00 A.M. - Convening of settlement conference at Judge Boyle's chambers in the United States Courthouse
- Description by judge of purpose and procedures of the conference
- Discussion of the problems that divide the parties
- Statement by the plaintiff's attorney of what the plaintiff would like to achieve in a settlement
- Statement by the defendant's attorney of what the defendant would like to achieve in a settlement
- Summary of the areas of mutual interest of the parties by the settlement judge
- Exploration of options for settlement
- Opportunities for each of the parties and their attorneys to consult in private concerning the options
- Opportunities for each of the parties and their attorneys to meet with the settlement judge in private concerning the options and the merits of their case
- Mediation by the settlement judge to assist the parties and their attorneys in reaching a settlement
- Settlement, if the parties agree.

ATTACHMENT "A"

SETTLEMENT CONFERENCE QUESTIONNAIRE

1. Statement of facts pertinent to settlement.
2. Plaintiff's theories of recovery if not obvious.
3. If liability not admitted, bona fide defenses and counterclaims tendered by Defendant.
4. Damages - Plaintiff should list the specials incurred and claimed. Do not use the maximum possible figures but what is deemed reasonable and what will be presented at trial. List special and general damages separately. Defendant should list what is claimed to be a reasonable amount where items are contested.
5. Summarize the bona fide disputes regarding damages.
6. Weaknesses.
7. Plaintiff's evaluation of fair settlement.
8. Defendant's evaluation of fair settlement.
9. May the Court disclose these figures to the opposing party at the commencement of the conference?
10. If Plaintiff recovers a judgment, is the question of apportionment of and liability among Defendant(s) a factor affecting negotiations?
11. Are there viable sources from whom Defendant may seek contribution?
12. Do you feel the other party has negotiated in good faith?
13. Does either party have client problems which affect these negotiations?
14. Do client and attorney disagree on the settlement value?
15. What factors not discussed above have hampered settlement negotiations?
16. State your opinion as to the bona fide chance for settlement in this matter.
17. Are there legal questions which effectively bar serious settlement negotiations?

18. Do you want the settlement judge to give preliminary, non-binding predictions as to such rulings to assist in settlement negotiations?
19. Are mediation or arbitration of certain areas or the entire matter viable options?
20. Do Defendants (if more than one) want separate or joint conferences with the judge when Plaintiff(s) is excluded?
21. Do Plaintiffs (if more than one) want separate or joint conferences with the judge when Defendant(s) is excluded?
22. Expenses of litigation:
To date:
Estimate of present to conclusion:

United States District Court
for the
District of Idaho
August 12, 2004

* * CLERK'S CERTIFICATE OF MAILING * *

Re: 1:03-cv-00527

I certify that I caused a copy of the attached document to be mailed or faxed to the following named persons:

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____ Chief Judge B. Lynn Winmill
____ Judge Edward J. Lodge
____/ Chief Magistrate Judge Larry M. Boyle
____ Magistrate Judge Mikel H. Williams

Visiting Judges:

____ Judge David O. Carter
____ Judge John C. Coughenour
____ Judge Thomas S. Zilly

Cameron S. Burke, Clerk

Date: 8-12-04

BY: *[Signature]*
(Deputy Clerk)