
ADVICE TO PARTIES ABOUT SETTLEMENT CONFERENCE
EMPC [X/201X] [XvY]

[1] A judicial settlement conference has been convened for **[time and date]** at the Employment Court (**[Hearing room and Street address]**). As the aim of this conference is to try and reach a settlement of the proceedings the parties are expected to attend with the good faith intention and the authority to achieve this.

[2] In preparation for the conference each of the parties is to file and serve a memorandum to address the questions and attach the information requested below no later than five working days (**no later than 4.00 pm on [DATE]**) prior to the date of the conference. All answers and information provided will be subject to the following statement of privilege:

Privilege

Settlement conferences, and any papers filed in connection with them, are without prejudice and are privileged, apart from the record of whether a settlement was reached or not. The memoranda requested in this minute will not form part of the formal Court record and, unless requested by any party and consented to by all other parties, it will be destroyed; returned to counsel, and all parties who have provided them; removed from the file; or sealed up at the conclusion of the conference. The documents that the parties have provided to each other should be dealt with in accordance with any agreement between the parties.

Questions

1. What are the issues in this litigation?
2. Which of these issues are inhibiting your ability to settle and why?
3. Have you and the other party engaged in settlement negotiations? Please describe the nature of these negotiations, that is counsel-to-counsel, mediation, etc.
4. What offers of settlement have been made by both parties?
5. What criteria was any offer based on?

6. What else do you believe that the settlement conference Judge should know about this matter that would enable the conference to proceed productively with the full participation of all parties?

Information

1. Attach those documents you intend to rely on at the settlement conference.
2. Attach a one page 'will-say' statement from each of your key witnesses. This will begin: "Witness A will say the following ...". The 'will-say' documents may not be used for the purpose of cross-examination. Alternatively briefs of evidence filed in the Employment Relations Authority may be attached.
3. Submit any expert reports that you rely upon in your settlement negotiations or to support your perspective of the case. Highlight and tab those portions that you consider to be important to your case.
4. Attach a one page summary of any relevant legal issues including reference to the leading authorities.
5. [The **[plaintiff/defendant]** is to attach a schedule quantifying any loss of wages and/or compensation claims and setting out the method by which these quantifications are made.]
6. **[if parties represented.]** Each of the parties is to also file a schedule setting out costs incurred to date (including those incurred in the Authority) and the likely costs of proceeding to a trial.

It would be helpful if each party calculates its likely costs award should it be the successful party, using the Costs Guideline Scale. The Costs Guideline is in the Employment Court [Practice Directions](#).

[Added if categorisation discussed at directions conference.] Pending any further direction, this calculation is to be done on the daily recovery rate for Category **[1, 2 or 3]** Band **[A, B or C]**, as assigned at a directions conference **[Change category/band as required]**.

Registrar

Notes: [if parties are represented]

The daily recovery rates are set out in Schedule 2 of the High Court Rules as amended from time to time.

For steps taken up until *1 August 2019* the daily rates are:

Category 1	\$1,480
2	\$2,230
3	\$3,300

For steps taken from *1 August 2019* the daily rates are:

Category 1	\$1,590
2	\$2,390
3	\$3,530