

SUPREME COURT OF YUKON

PRACTICE DIRECTION
CIVIL-1
FAMILY-12

Judicial Settlement Conferences

The practice in this Court is to canvass the possibility of a settlement conference when a matter is set down for trial. Rule 37 permits a judge to order attendance at a settlement conference. Videoconferencing or teleconferencing may be arranged.

Priority will generally be given to family law matters, as they are usually more urgent. It is anticipated that in personal injury matters, a private mediation will be attempted before a judge will be called upon, except for those cases with a contested legal issue.

Judicial settlement conferences may take either a non-binding or binding form, depending on the election of the parties. By default, settlement conferences will be non-binding. Parties must fill out and sign the Agreement in Form 108A and attend a case management conference with a judge in order to proceed by way of binding judicial settlement conference.

The parties may jointly request a particular judge whose background and experience will be conducive to reaching a settlement. The senior judge will assign the settlement conference judge.

In advance of the settlement conference, the judge will have a case management conference to discuss the case. If all parties are represented by counsel, this may take place by telephone. The discussion will include canvassing the issues to be dealt with, the binding or non-binding nature of the settlement conference, and any timelines for filing briefs and affidavit or oral evidence. Counsel will be asked to disclose the settlement discussions to date including offers. The discussion should determine who will start first and the level of participation of counsel and parties.

The settlement conference will be conducted in a respectful way and the conduct of counsel and parties must be respectful at all times.

The settlement conference will be without prejudice, which means that nothing that is said or done can be raised at trial. All documents produced will be returned to counsel or the parties or sealed and retained in the file, as per the judge's directions.

The settlement conference will be recorded by the judge. The recording is for the use of the judge only and will be stored in a sealed envelope in a separate file. If agreed to by all parties, or at the direction of the judge, the conference may take place in the courtroom and recorded on DARS. Regardless of whether the settlement conference takes place in a courtroom, the agreement or the decision of the judge will be read into the official court record in the form of a court order.

A settlement conference judge will not be the trial judge, unless all parties request and consent to that judge hearing the trial.

Generally, the attendance of counsel and the instructing party is required. In personal injury cases, the adjuster with settlement authority must attend.

Veale J.
July 19, 2017