

27 NCAC 01D .0708 SETTLEMENT CONFERENCE PROCEDURE

- (a) The coordinator will assign the case to a facilitator.
- (b) The State Bar will serve a letter of notice upon the respondent lawyer.
 - (1) The letter of notice shall be served by one of the following methods:
 - (A) mailing a copy thereof by registered or certified mail, return receipt requested, to the last known address of the member contained in the records of the North Carolina State Bar or such later address as may be known to the person attempting service;
 - (B) mailing a copy thereof by designated delivery service (such as Federal Express or UPS), return receipt requested, to the last known address of the member contained in the records of the North Carolina State Bar or such later address as may be known to the person attempting service;
 - (C) personal service by the State Bar counsel or deputy counsel or by a State Bar investigator;
 - (D) personal service by any person authorized by Rule 4 of the North Carolina Rules of Civil Procedure to serve process; or
 - (E) email sent to the email address of the member contained in the records of the North Carolina State Bar if the member sends an email from that same email address to the State Bar agreeing to accept service of the letter of notice by email. Service of the letter of notice will be deemed complete on the date that the letter of notice is sent by email.
 - A member who cannot, with reasonable diligence, be served by one of the methods identified in subparagraphs (A)–(E) above shall be deemed served upon publication of the notice in the State Bar Journal.
 - (2) The letter of notice shall enclose copies of the petition and of any relevant materials provided by the petitioner.
 - (3) The letter of notice shall notify the respondent (i) that the petition was filed and (ii) of the respondent's obligation to provide to the State Bar a written response to the letter of notice, signed by the respondent, within 15 days of service of the letter of notice.
- (c) Within 15 days after the letter of notice is served upon the respondent, the respondent must provide a written response to the petition signed by the respondent. The facilitator may grant requests for extensions of time to respond. The response must be a full and fair disclosure of all the facts and circumstances pertaining to the dispute. The response shall include all documents necessary to a full and fair understanding of the dispute. The response shall not include documents that are not necessary to a full and fair understanding of the dispute. The facilitator will provide a copy of the response to the petitioner unless the respondent objects in writing.
- (d) The facilitator will conduct an investigation.
- (e) The facilitator may conduct a telephone settlement conference. The facilitator may conduct the settlement conference by conference call or by telephone calls between the facilitator and one party at a time, depending upon which method the facilitator believes has the greater likelihood of success.
- (f) The facilitator will explain the following to the parties:
 - (1) the procedure that will be followed;
 - (2) the differences between a facilitated settlement conference and other forms of conflict resolution;
 - (3) that the settlement conference is not a trial;
 - (4) that the facilitator is not a judge;
 - (5) that participation in the settlement conference does not deprive the parties of any right they would otherwise have to pursue resolution of the dispute through the court system if they do not reach a settlement;
 - (6) the circumstances under which the facilitator may communicate privately with any party or with any other person;
 - (7) whether and under what conditions private communications with the facilitator will be shared with the other party or held in confidence during the conference; and
 - (8) that any agreement reached will be reached by mutual consent of the parties.
- (g) It is the duty of the facilitator to be impartial and to advise the parties of any circumstance that might cause either party to conclude that the facilitator has a possible bias, prejudice, or partiality.
- (h) It is the duty of the facilitator to timely determine when the dispute cannot be resolved by settlement and to declare that an impasse exists and that the settlement conference should end.
- (i) Upon completion of the settlement conference, the facilitator will prepare a disposition letter to be sent to the parties explaining:

- (1) that the settlement conference resulted in a settlement and the terms of settlement; or
- (2) that the settlement conference resulted in an impasse.

History Note

Authority G.S. 84-23;

Adopted Eff. May 4, 2000;

Amendments Approved by the Supreme Court: March 11, 2010; September 25, 2019; March 20, 2024.