

IN THE SUPREME COURT OF THE STATE OF NEVADA

CITY OF HENDERSON; AND CCMSI,
Appellants,
vs.
BRIAN WOLFGRAM, AN INDIVIDUAL,
Respondent.

No. 80982

Electronically Filed
May 15 2020 09:39 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

SETTLEMENT PROGRAM
EARLY CASE ASSESSMENT REPORT

After conducting a premediation conference with counsel pursuant to NRAP 16(b), I make the following recommendation to the court regarding this appeal:

This case is appropriate for the program and a mediation session will be scheduled/has been scheduled for:

This case is not appropriate for mediation and should be removed from the settlement program.

The premediation conference has not been conducted or is continued because:

See attachment.



Settlement Judge

cc: All Counsel

Attachment to Early Case Assessment:

The Settlement Judge conducted scheduling conferences with counsel for the parties on Monday, May 11, 2020 and Tuesday May 12, 2020 (with lead counsel present). The purpose of the conference was to schedule a date for the settlement conference. However, counsel for the parties raised an issue during the scheduling conferences that called into question the viability of having a meaningful settlement conference in this case. The nature of the matter in dispute does not appear to lend itself to meaningful negotiations for several reasons, which collectively suggest that this case should be referred back to the Court for briefing and formal disposition: (1) the nature of the legal dispute in issue is such that the parties cannot monetize their positions, and so cannot negotiate to a dollar amount that would be mutually acceptable to both parties; (2) the parties do not believe a non-monetary resolution is possible as both believe that there is a need to settle the law on the disputed legal issue; (3) the legal issue in dispute has not been addressed by the appellate courts in this state and, being a unique issue under Nevada law, is not addressed in decisions of other jurisdictions; (4) the legal issue in dispute is one that is likely to arise in other cases, some of which are in the process of making their way to the appellate level, others of which likely are still in the initial litigation stage, and still more of which are likely to be presented in the future; and (5) the attorneys and firms, and the respective parties involved here, are not the only ones dealing with this legal issue, making it unfeasible to draw all involved into a settlement conference and explore a global negotiated resolution of the legal issue presented. This Settlement Judge very rarely views cases as outside the range of settlement possibilities, almost always convenes the settlement conference and has observed countless times that cases the parties say cannot be settled then settle. In this instance, however, it appears that the combination of issues is such that settlement may indeed not be feasible. That having been said, this Settlement Judge certainly is willing to convene the Settlement Conference if the directions and guidance from the program is to go forward and make his best effort to help the parties try to find a mutually acceptable resolution of this case. Counsel for the parties have said they will negotiate in good faith if a settlement conference is convened, though neither believes a negotiated resolution is a practical possibility here for the reasons previously stated.