I N D E X

APPELLATE SETTLEMENT CONFERENCE

APPELLATE ADR--or APPELLATE SETTLEMENT CONFERENCE (MEDIATION AFTER JUDGMENT OF THE TRIAL COURT BUT PRIOR TO APPEAL).

By Braswell D. Deen, Jr., Senior Appellate Court Judge

After a jury trial or judgment of the trial court, and, after a notice of appeal has been filed and within 12 days thereafter where both sides mutually agree, the time period of the appeal to the court of appeals will be tolled for a period of 30 to 60 days, so that both parties along with their attorneys may sit down and meet at an appellate settlement conference, in order to make one final attempt to settle the case prior to appeal. The settlement conference clerk, Perry Walinski, whose office is located on the 3rd floor of the state judicial building, upon receiving notice that counsel for both sides in a case voluntarily elect to participate in an appellate settlement conference, then designates a Senior Appellate court judge or a Superior court trial judge with Senior Status to determine a date and then conduct the mediation conference. The conference judge seeks to select a date and location convenient with all parties. In the metro area the session or conference is often held in the judges conference banc room adjacent to the courtroom on the 6th floor of the judicial building. If the conference mediation is successful and a settlement reached, the appeal will be dismissed with prejudice, both sides will be assessed costs, and an order will be issued to all concerned terminating the process. On the other hand if the case is not mediable and no settlement reached then both sides will be assessed costs , and, the judge will issue an order indicating that all have put forth their best efforts but no settlement can be reached, the process is terminated, and the parties may then continue to pursue their appeal.

The first mediator in Georgia was a lady named Mary Musgrove. (The writers only claim to fame, if any, was having authored Georgia's Woman Jury Bill in the late 1950's. Prior to that time women could vote, hold office and practice law, but were prevented by statute from serving on the grand and petty juries in Georgia's judicial system). Two hundred and fifty years ago Mary Musgrove was active in ADR. She could speak several languages and aided in settling many disputes between Tomochichi and the Indians, their village located on the southern bank of the Savannah River and General Edward Oglethorpe representing the colony of Georgia. She was more active as a mediator than as an arbitrator. It has been reported that she received about 15,000 acres of land on an island off the coast of Georgia, as her fees for many mediation sessions conducted. It might be well to add that her fee is slightly more that current mediators in our state expect or receive.

Someone recently asked me when mediation first began. My answer was, that when the first man was on earth, many thousands of years ago, he was alone and without a helpmate or playmate. The man said out loud that "I am so lonesome, I would give up a lot if only

someone were here with me". About that time a voice from above announced that "I have the power to solve your problem. I can provide you with a helpmate, but it will cost you. My demand is high". The man replied that "I will be glad to mediate, make a generous offer or work out a settlement, if only you can provide me a wife, a companion or someone to be with me. I stand ready to communicate, confer and to consider your demands, and, I have a lot of flexibility. The voice from above then stated emphatically, "it may cost you an arm and a leg". The man then replied "Gee, that's two much, but what about a rib?). The may be an example of what could be the world's first successful mediation. Both sides compromised and gave up something they didn't want to part with, but, many times, the give and take, is what mediation is all about.

At the designated time I call the session or mediation conference to order. Where appropriate I like to thank all for being on time so that we may promptly commence settlement discussions. At the outset I often like to make a few remarks about my background in the law in general and about my qualifications and training in ADR in particular. It is stressed that as a member of Mediation Rosters and being listed on Arbitration Panels that I am one of many, called neutrals. That as mediators and arbitrators all I have to offer is experience, training, age, maturity, impartiality and objectivity. That my assignment as a facilitator is taken most seriously in seeking to explore whether there are areas of agreement that may be reached. The attorneys and their clients along with the mediator are all seated at the conference table and it is suggested that all lawsuits are serious business therefore laughter, jest and humor are best left outside of the conference room, unless the humor is aimed or pointed at the mediator.

It has been my experience that mediation sessions conducted where both parties originally voluntarily agree to mediate are about 80%, or more, successful. Where county annexed mediation programs mandate mediation in civil lawsuits this is involuntary mediation and the results are about 60% successful. Appellate settlement conferences in our state is voluntary, that is, it takes two to tango. It must be remembered however in this latter type mediation there is already a winner and a loser. When someone is sitting on a judgment they may have less flexibility than if they had elected to mediate prior to trial. Likewise, the one who is the loser may be more anxious to settle and to give up more at this stage than if they had mediated prior to trial. Nevertheless it is exciting to know that about 50% of the appellate settlement conferences bring about a settlement. All the mediation settlements made at all levels as well as arbitration hearings resulting in judgments of finality, lighten the overloaded judicial systems throughout the state and should bring accolades and applause from the leaders of our judicial system, to say nothing of the over taxed citizens of our state. In mediation sessions it should be pointed out that, if successful, mediation settlements always

opposing side. All parties, who have ultimate authority to settle must be present, along with their counsel if the session is to be fruitful. Both parties and their attorneys are encouraged to participate in the session. The mediator must remain unbiased throughout the session and not judge right or wrong. In addition to generating a climate of cooperation the mediator must listen to both parties attentively and to any solutions suggested by each. It is the mediators responsibility to remain patient with both parties, to stay on target and on key issues in order to seek and reach a settlement agreeable to all parties. When one side presents their case and has had their say I like to ask a few questions and encourage them to invite questions from the other side. Then the other side presents their position with follow up questions as was done with the other.

During the preliminary remarks of the mediator it is sometimes suggested that mediation is a type of M & M...a meeting of minds on matters of mathematics and money methodology. That is, most mediation settlements amount to an agreement on an amount of money. This being the case one of the first goals of the session is to find out the dollar amount of the demand and the dollar amount of the offer while the secondary aim is to discover the amount of flexibility appellant and appellee have brought to the conference table. Once the mediator determines how far apart the parties are, or how wide is the gap between the two, it is announced that the only way to reach a settlement is see if their are ways and means to close the gap or have a meeting of minds. During the initial portion of the session both parties and their counsel have been asked the important question by the mediator: "do your seriously desire if at all possible to settle this case today?" Most all will respond affirmatively. Follow up observations are usually stated by the mediator as long as progress is being made in settlement of the case all parties are urged to stay at the settlement conference. Sessions may last one to three hours or longer. As long as parties are around the table talking they are not fighting and sometimes I might add that it has been said that if all can be kept at the table until meal time their might be an added incentive to go ahead and settle where all may go dine. This is followed by stating that at any time if the mediator or either party senses that no progress is being made, and an impasse or stalemate appears inevitable, and that it appears we are wasting the valuable time of everyone, then we can adjourn the meeting. In court-annexed mandated mediation programs all are under court order to mediate in "good faith" for a three hour period. If progress is being made, and, with the consent of all parties, this time may be extended, or a later date may be selected for a 2nd mediation session.

Mediators learn from training received from other mediators and from being an observer in a mediation session. Sometimes in co-mediating with other mediators techniques and skills of others are adopted. Many mediators use differing approaches but are successful in results reached. This mediator likes to admit and acknowledge

that no "legal legerdemain has been learned, nor any mathematical magical wand possessed by me that will accomplish and achieve arithmetical accuracy" in arriving at a settlement. In my opening remarks it is stated to all that the mediation session will be divided into three parts: (1) The joint session with all parties having their say; (2) The private sessions or caucasus with the mediator meeting privately with each side; and, (3) The negotiating sessions, which I consider the most important, and which most of the time available should be devoted.

My previous remarks have generally covered what occurs in the first session, the joint session. When the mediator meets privately in the second sessions with both parties, what is said in each, is confidential as to the other party, unless one side authorizes the mediator to disclose remarks made. Many times parties will share with the mediator something that was withheld at the joint session. This mediator does not give legal advise but does seek to point out strengths and weaknesses of each side. The latter is an indirect evaluation of the parties case but must be done discreetly. Sometimes if the parties will share their "magic" number of the lowest demand or highest offer it might aid in facilitating a settlement, however, the mediator cannot disclose any information to one party not authorized by the other, and vise versa. The second sessions generally will last about 5-10 minutes on each side. Assuming you have allotted approximately 3 hours for mediation, the first joint session should last about 40 minutes; the second private sessions should take approximately 20 minutes; this should leave one and a half to two hours for the third or negotiating session. This is where we begin to talk money amounts or as some say "talk turkey". I like to keep the two parties in two different rooms during the third session if facilities are available. The parties are told we will go back into a joint session only if one of two things occur; if we reach a settlements all go back in to shake hands and issue a check and obtain releases or to finalize the wording of the agreement. Of course if no agreement can be reached all parties meet again in joint session for a few words from the mediator before adjournment. Many times when there is no settlement at the session, about one-third of the cases where no settlement obtains, will nevertheless settle within ten days after the mediation based on the progress made at the session.

During the third session, with the parties in different rooms, the mediator becomes a messenger going back and forth from room to room to report to the parties if the demand is lowered or if the offer is raised. The mediator is the bearer of "good news and bad news". The mediator might report there has been substantial movement on one side which is good news but the bad news is that it may not be what the other side has in mind. Thinking about "good news and bad news" reminds me of "Preacher Jones". Someone has said: " that of all the good and bad preachers they had listened to Preacher Jones was one of them". One day preacher Jones asked Susie

Smith how she was doing, and she replied, "pretty good". Jones said "that's good, real good". Susie said, "well its mostly good but not altogether good because my old boyfriend got married last month". Jones said, "I'm sorry, that's real bad". She said, "it is bad, but not altogether bad, as I married another fella last week". Jones smiled and said, "I'm happy, this is real good". Susie said, "well, preacher, its partly good but not all together good because my husband drinks a lot and can cuss something awful". Jones, said "gee, I's disappointed, that is too bad". She said, "yes it is bad, but not altogether bad, because he's worth several million dollars". Preacher Jones clapped his hands and said "now this is real good". Preacher, it is good, but only partly good, because he said I couldn't have a dime of his money until his death". Jones said, "this is bad, real bad". Smith said, "yes it is bad, but not altogether bad, because he put me in a new home with servants, swimming pool, and a new cadillac with a chauffeur. "hey, this is great, real good" said Jones. "Well, its partly good, but not all good", said Susie, because "that house burned down last night". "Oh, I'm so sorry, said Jones, that is real, real bad". Susie said "preacher you're right its bad, but not altogether bad, because that rascal husband of mine was in the house when it burned". The preacher said, I'm confused, let us pray!

It must be acknowledged that about 95% of the format and activity utilized in Appellate Settlement Conference Mediation is applicable and appropriate to be used and repeated in other type mediation sessions such as voluntary mediation and court annexed involuntary mediation. The central question in all mediation is "evaluation of the case" by both sides, with the mediator as a facilitator, to assist both parties in seeking honorable alternatives that might lead to settlement. I would suggest to those interested SETTLEMENT LAW AND STRATEGIES co-authored by H. Sol Clark and Fred S. Clark. This book provides techniques and strategies of negotiations and practice tips on how to settle a case. Another recent well written book is entitled ALTERNATIVE DISPUTE RESOLUTION by Douglas H. Yarn. Part of my training was under Dr. Yarn and his book provides helpful hints for the mediator and arbitrator as well as all participants. When the parties appear in a session to have no settlement, and are ready to walk away, both, who are headed for appeal in the Court of Appeals, sometimes reconsiders at this last minute and agrees to a settlement. When the parties are real close, but there appears to be no further movement, and all are really ready to walk away, I ask both lawyers to go into a separate room, by themselves, for five minutes to see if they can resolve the case. Sometimes they do arrive at a settlement and many times they are unsuccessful.

Rather than at the last minute let everybody walk away without a settlement agreement, I sometimes suggest, when the parties are real close together but both appear to have drawn a line in the sand, what some have called "DEEN'S DYNAMITE" charge. Often at this stage I get the feeling both parties would like for the mediator to

Retired

Appellate Procedure

July 12, 1993

The Honorable Braswell D. Deen, Jr.
4715 Kitty Hawk Place, N. E.
Atlanta, Georgia 30342

Dear Judge Deen:

Thank you for providing for each of us a copy of your report or lecture on the Appellate Settlement Conference. It certainly enlightens the reader with the process, purpose, and potentials of not only ASC but also mediation more broadly. I hope you have submitted this to the Georgia State Bar Journal for publication. It is a good testimony to what is being tried and found true. I particularly appreciate your reference to the training which you had for this new role. I am afraid that judges may think they can perform effective mediation without training in the special skills which are needed.

Also, a copy should go to the ADR Commission and Jack Watson so that your experience can be built on.

Do you think it is time for us to mandate ASC in all civil cases?

Sincerely,

DOROTHY T. BEASLEY

jtw 7/12

Court of Appeals

Memorandum

To: **ALL JUDGES**

From: **CHIEF JUDGE POPE**

Subject: **APPELLATE SETTLEMENT CONFERENCE**

Date: **JULY 7, 1993**

Judge Deen has asked me to pass along the attached paper to you for your information.

/lj

Attachment

MEMORANDUM

TO: Judge Edward H. Johnson
Chief Judge Marion T. Pope, Jr.
Presiding Judge Andrew W. Birdsong, Jr.

FROM: Perry Walinski

DATE: September 30, 1993

RE: Appellate Settlement Conference Meeting

A meeting to discuss the future direction of the settlement conference has been scheduled for Tuesday, November 9, 1993, at 1:00 p.m. in the banc room. I have sent a confirming memorandum to Judges Shulman, Sognier, Deen and Undercofler, a copy of which is attached for your information.

MEMORANDUM

TO: Honorable Arnold Shulman
Honorable John W. Sognier
Honorable Braswell D. Deen, Jr.
Honorable Hiram K. Undercofler

FROM: Perry Walinski

DATE: September 30, 1993

RE: Appellate Settlement Conference Meeting

A meeting to discuss the future direction of the settlement conference has been scheduled for Tuesday, November 9, 1993, at 1:00 p.m. in the banc room. Also attending the meeting will be Judge Ed Johnson, Chief Judge Pope, and Presiding Judge Birdsong.

For your information, I have attached a copy of a survey we prepared for use by the State Bar Association, as well as a copy of a survey we did of the programs in other states. Please review the surveys, think about our settlement conference program, and come prepared to brainstorm. We certainly do appreciate your willingness to attend the meeting, and look forward to hearing your ideas to help improve our program.

cc: Judge Edward H. Johnson
Chief Judge Marion T. Pope, Jr.
Presiding Judge Andrew W. Birdsong, Jr.

COURT OF APPEALS

MEMORANDUM

TO: CHIEF JUDGE POPE AND PRESIDING JUDGE BIRDSONG

FROM: ED JOHNSON

SUBJ: APPELLATE SETTLEMENT CONFERENCE

DATE: SEPTEMBER 29, 1993

Following up on our meeting concerning the appellate settlement conference, I have asked Perry Walinski to set up a meeting for the three of us with Arnold Shulman, Braswell Deen, Jack Sognier, and Hiram Undercoffler to discuss the future direction of the settlement conference. I think it wise to have Ms. Walinski actively involved in the discussions as well. She not only knows more about what we are currently doing than anyone else, but she will be directly affected by any changes we adopt. I consider her to be good source of ideas based on her day-to-day work experience.

As we discussed, this initial meeting will focus upon the results of the bar association survey and the survey of programs in the other states which we did ourselves. We can then get input from these loyal former judges about changes in the settlement conference which will make it better for us and better for the state as well. I will distribute the survey results to each of these other judges in advance of the meeting. Your copies are attached.

Perry Walinski will be contacting your administrative assistant soon to schedule the meeting; I suggested to her that we try to do it in about a month, and that there was no urgency about it.

I'd appreciate any other ideas you have on the subject.

cc: Perry Walinski

APPELLATE SETTLEMENT PROGRAM SURVEY

	Active Program SUPREME CT	APPEALS CT	AUTOMATED DOCKETING	MANDATORY
Alabama, Montgomery	Yes	No		No
Alaska, Anchorage	No		Yes	
Arizona, Phoenix	No	No	Yes/-	
Arkansas, Little Rock		No	No	
California	No	Yes	-/Yes	No
Canada	No response			
Colorado, Denver	No	*No	Yes	
Connecticut	Yes	Yes	Yes/Yes	Yes/Yes
Delaware, Wilmington	No			
District of Columbia, Wash.	No			Yes
Florida		*No		
Hawaii	No			
Idaho	Yes		Yes	No
Illinois, Chicago	No	No	-/Yes	
Indiana, Indianapolis		No		
Iowa, Des Moines	No	No	No/No	
Kansas, Topeka	No	No		
Kentucky	Yes	Yes	Yes/No	Yes/Yes
Louisiana, New Orleans	No	No		
Maine, Augusta	No	No		
Maryland		Yes	-/Yes	
Massachusetts, Boston	No	Yes	Yes/No	-/Yes
Michigan, Southfield	No			
Minnesota	No response			
Mississippi, Jackson	No			
Missouri	No	Yes	No/No	No
Montana	No response			
Nebraska, Lincoln	*No	No	Yes	
Nevada	Yes		No	No
New Hampshire, Concord	No response			
New Jersey		Yes	Yes	Yes and No
New Mexico		Yes	No	Yes and No
New York		Yes	Yes	Yes
North Carolina, Charleston	No	*No	Yes	
North Dakota	No			
Ohio	No	Yes	No	Yes
Oklahoma, Oklahoma	No		No	
Oregon, Salem		No	Yes	
Pennsylvania	No response			
Puerto Rico	No response			
Rhode Island	Yes and no		Yes	Yes
South Carolina, Columbia	No		No	
South DeKota	Yes		Yes	No
Tennessee, Nashville	No	No	No	
Texas	No		Yes	
Utah	*No	No	No	
Vermont	No response			
Virgin Islands	No response			
Virginia, Richmond	No			
Virginia, West	No response			
Washington, Tacoma	No		Yes	
Wisconsin, Madison	*No	No		
Wyoming, Cheyenne	No		No	

*=discontinued program

APPELLATE SETTLEMENT CONFERENCE SURVEY

1. In your law practice, do you handle civil trials and appeals?

   Yes (1018) No (58)

2. Are you aware of the settlement conference program in the Court of Appeals?

   Yes (727) No (317)

3. Have you used the settlement conference program?

   Yes (189) No (913)

4. If yes, what was the outcome of the settlement conference in your case.

   Settled (61) Not settled (120)

5. If no, why did you decide not to take advantage of the settlement conference Program?

   (see attached survey)

6. Please give your general comments regarding the settlement conference program.

   (see attached survey)

7. Specifically, in what ways could the program be improved?

   (see attached survey)

8. Should participation in the Appellate Settlement Conference be required in all cases docketed in the Court of Appeals as part of the normal appellate process (yes or No) Why?

   Yes 237 No 572 No Opinion 337

   (see attached survey)

5. IF NO, WHY DID YOU DECIDE TO TAKE ADVANTAGE OF THE SETTLEMENT CONFERENCE PROGRAM?

I did want to take advantage of program. Opposing counsel was not interested.

Offered, however, opposing party declined.

Any program which encourages settlement should be supported. The use of trained mediators might help facilitate settlement.

We wanted formal decision in the case.

Because the cases did not lend themselves to a compromise and the parties were willing to take their chances on appeal.
The pending written was resolved/dismissed prior to the conference, which may have sparked the resolution.

The other lawyer on two different occasions refused to participate.

Opposing attorneys chose not to participate.
No opportunity.

Opportunity has not arisen.

We have not yet had a case on appeal to put it to use.

No appeals lately.

No suitable case so far.

We accepted, rejected by other party.

Other side opposed settlement conf.

The attitudes of the parties and skepticism of attorneys.

Although I was willing to engage in the settlement conference process, I found that appellees, having won below, were not so inclined.

No one on the other side of any appeal I have had would agree to the conference.

Opposing counsel (i.e., whoever won) has no incentive to settle.

I simply have not had a case there since program has been started.

Not offered.

Someone else in office handles appeals.

Someone else in office handles appeals.

I have always been willing. The other side always declines.

I have not had an appeal in court of appeals since procedure. took effect.

I desired one but the other party refused my request. I was the unsuccessful party.

Was not available when I filed by last appeal.

I can never get the other side (defendant) to agree to participate.

The two appeals for which it was available were not referred because the opposing parties rejected.

Opposition refused to stipulate.

We won at trial level; no advantage to be gained in that particular case from participating. We saw little likelihood of losing on appeal, so little to discuss.

Was not available in last appeal.

Cases settled early.

Other side objected.

The other side refused to take advantage of settlement conference program.

the opposing party refused to participate.

Opposing party has never consented.

In some cases I wished to, but the other side did not. In others, the case was decided on summary judgment and settlement was not possible.

Either counsel for appellant or counsel for appellee refused to participate.

I have elected to confer, but have never had my opponent agree.

Parties too far apart to make it worthwhile.

Other side has yet to agree in cases on appeal.

Have not had an appeal yet under this program.

I wanted to use the program. Opposing counsel did not.

No civil appeals yet.

Opposing counsel did not wish to participate in program.

It is late in the process. Such should be done in all trial courts.

Have had no appeals such program started.

Appeals dismissed by opposing parties prior to conference.

The appeal did not get that far.

The opposing attorney did not want to utilize the services.

No opportunity.

Mo case in court of appeals.

Other side not amenable.

Opposing party did not want to participate.

Could not get the other party to agree to participate.

We have not had an appeal since the program was initiated. Other side refused.

Not had an appeal granted since instituted.

Make mandatory.

I have not had a case on appeal since the program was instituted.

I have never had a case that I thought was appropriate for the program.

Client withdrew prior to appeal.

Generally when a case reaches this level, settlement is not very realistic.

No occasion to use.

No appellate case in state courts at moment.

No case on appeal.

No opportunity to use.

Did not seem appropriate for participate cases.

Have not had occasion to use it.

Having had opportunity.

I have requested a conference. The opposing counsel did not. No conference scheduled.

Cases involved law issues that were not suited for settlement.

Didn't think about it.

Usually opposing counsel has not wanted to participate.

The client had been successful below and believed the appeal would not be successful. Thus, the client has no interest in settling.

The parties did not consent. Twice, the appeals were disputed of on procedural grounds.

Have not had opportunity to do so.

I have yet to have a case reach appeal where the parties had not exhaustively explored settlement beforehand.

No appeals.

Other party always refuses.

We wanted - the other side refused.

It hasn't been necessary or prudent.

Client refused in cases I've had so far.

Had no occasion to appeal.

It was not our decision.

Other attorney would not agree.

Other party determined it didn't want.

Both times when I had an appeal, the other party did not wish to use it.

The other side opted out.

I have not had a case before court.

I am ready to try it.

I am completely unaware of the program.

Although I have handled civil trails for my clients, to this point I have not had a case before your court.

Have not had civil appeal.

I didn't know about the program. Nor was I lead attorney on case.

I haven't had opportunity.

Yes. To expedite resolution of longstanding cases.

We will use, just haven't taken case to court of appeals.

Because of nature of case, little benefit would have been realized.

For reasons I cannot recall, all my appeals were not applicable.

Opposite party has rejected settlement conference.
The appeals that I have had do not seem to be suitable for settlement at the appellate level.

Cases were resolved before completion of appellate process.

The parties were too far apart.

Opposing party would not agree to it.

I was agreeable - other attorney was not.

Case decided on summary judgment in trial court in favor of my client; frivolous case from the outset and a frivolous appeal.

At this time the case has been won or lost and the winner is in no mood to settle. Must have true concern for a reversal or why should winner settle?

The defendant was never interested.

I think the procedure is analogous to ADR.

The one case I have had subject to the procedure was not a case that could be settled. My client had insurance but no exposure and summary judgment had been granted. The other defendants had no insurance.

My clients were not interested in pursing settlement at that time.

Cases had already had serious consideration given to settlement; did not think further discussion helpful.

I rarely do appeals.

I do not believe appellate judges have sufficient trial experience to be of any help in settling any trial matters.

Set hearings faster.

The cases involved did not lend themselves to settlement.

In the past two appeals I had where I might have used the settlement conference, there was no way in the world we could have settled the case so we would not waste our time trying.

I have only had one opportunity and that was in a case that simply could not settle without an appellate ruling.

It is an excellent idea. But the fact is that my personal practice in legal estate.

I am basically retired and therefore would not use it.

Clients who have been thru years of hearings, mediation, arbitration, and trial don't seem interested in settlement conference at this level.

We would not use the appellate court unless it was important and necessary and by that time efforts to resolve the matter were unsuccessful.

Issue was felt to be too black and white for settlement conference.

Because the cases were all or nothing.

In several cases, my opponents selected not to use it. In one recent appeal, we felt it would not be helpful, given the issues in the case.

Seems to be a waste of time at that stage of the litigation and clients had no enthusiasm for it.

I don't see how you hope to settle a case at the appellate stage when you have already had months, if not years, to settle in the trial court.

Not aware of program.

Need more info.

I am working on the first matter now which I expect to be appealed.

Mutual agreement not to.

Waste of time.

It has not been appropriate - we have settled the law several cases on appeal.

I haven't had an appeal since it has been in effect.

I was not knowledgeable about it, but so far I have done only one appeal and in that particulate case the case was extremely strong on appeal and was won on appeal.

Did not know about same.

In cases I have had, they have been questions of law that the client wanted an answer to for future guidance.

Haven't yet appealed one.

My client did not think we should settle. Case had no liability.

I've never had any positive feedback about the program. If I take a case up on appeal, I am (I feel) that my client is entitled to a reversal. If my client is entitled to a reversal, why would I want to have the case "settled" by a settlement conference (compromised)?

No appeals in past six years.

Uncertainty of outcome prompts settlement of litigation. Greatest uncertainty is at trial level. Once final judgment has been entered, chances of settlement decline.

The opposing attorney was unwilling to arbitrate.

I have always agreed to it. On two occasions the other party declined.

Didn't know about it. Don't know anyone that has.

Haven't had a case in court of appeals since program started.

Attempt to once, opposing counsel rejected.

Because it's not compulsory, either my client or the other party

has declined negotiations.

We felt we had too strong a case on appeal for settlement to make sense at that point.

I required the conference in several cases, but my adverse counsel would not agree.

I represent plaintiffs, in almost every case I am the appellee. Settlement conferences only add expense and clearly to the process, particularly for those being outside the metro area.

I did not - the other side declined.

Extra cost and expense to client. If the matter could have been settled, it would have by this time.

Client would not settle.

The controlling issue was "technical" - whether appeal was timely.

By the time a case rises to the appellate level, "settlement" is not usually a word often heard. Settlement should have occurred long before it got to this point.

No appeal taken.

Seemed unnecessary.

Opposing counsel in each case had rejected settlement conference.

The defendant refused discussing possible settlement.

Did not care to use the program and my client did not care to use the program.

Cases in which I have had appeals have been "all or nothing" cases in which there was little or no compromise.

Was simply unwilling to compromise favorable trial result.

Successful on summary judgment and arbitration.

No possibility of settlement.

For the most part, opposing parties in the appellate cases chose not to participate and, by and large, when a case reached the appellate stage, the parties were not inclined to settle.

Not relevant to the issues involved.

In most of our cases the appealing party utilized appeal only as a means to delay enforcement of the judgment with no reversible error or realistic chance of success.

In most cases all settlement efforts were exhausted by the time they reached appellate level.

Preferred to let appellate court handle the case. In some cases, we wanted appellate opinion in order to get law on the books.

Cases were clear cut and settlement conference was not necessary.

By the time the case gets to the court of appeals, settlement in my opinion is unlikely.

I have not had to appeal a case yet since program became effective.

Neither side interested in settlement. Legal questions need to be answered.

Did not feel to be of any benefit.

Opposing party did not agree to settlement conference.

In every case, one side or the other rejected the settlement conference. In one case, once all parties agreed to the conference, the case settled before it was scheduled.

Questions of law are not really easy to settle.

Opposing party declined ASC.

I felt that both sides were since in their position that thought the court of appeals would affirm their position.

It is completely superfluous and a waste of time. Most folks who appeal are not in a "settling" posture.

I do not believe a case that has been tried, one in which one party intends to appeal, is the type of matter which can usually be made to settle.

Delay in final resolution. If a case has gotten as far as an appeal, settlement has been unsuccessful.

Representing the county as an appellee, the client felt there were not grounds for mediating the condemnation claim.

Did not think there was any possibility of settlement.

Not binding.

Other side not willing.

I view the program generally as a waste of time and a waste of my client's money. If the case could be settled within reason, it would have already been settled.

The only cases appealed since the procedure was in effect concerned issue of law that parties needed decided.

Case was simply one that clients would not settle.

The process would not have produced a resolution in my case.

The appeals filed by tenants to dispossessory actions are filed for the purpose of delaying an eviction. The appeal rarely meet the jurisdiction requirements of the appellate courts and the tenant is usually evicted for failure to tender rent into court. The settlement conference would be of advantage to the landlord because the tenant has no intention of prosecuting the appeal.

In every effort to discuss settlement opposing counsel rejected.

All parties must agree to the settlement conference.

I felt the appeals involved such "hot" feelings among the parties mediation had long passed.

Too far to travel.

The insurer attorney did not want to settle. I do not think the insurer was even aware of the program.

As an accommodation to other parties.

I drove from Savannah to Atlanta for the Settlement conference. I arrived with authority to settle the case. After agreeing to undergo this process, the defense attorney waltzed in and told the judge he had no offer to make and would consider no proposals from plaintiffs.

No grounds.

6. PLEASE GIVE YOUR GENERAL COMMENTS REGARDING THE SETTLEMENT CONFERENCE PROGRAM.

Have not actually used it.

Usually settlement has been broached many times by this point.

I think it's a good idea, but under the present program it just doesn't seem to be something the parties would opt for except in unusual circumstances.

Any important asset to further discourage and weed out frivolous appeals.

The idea of negotiations is generally responsible and healthy at all levels. However, of its increased costs and time then it undermines the program.

Try making the program mandatory to participate, but non-binding, similar to Fulton County's arbitration program.

A good idea. I will use if opportunity arises.

In theory it sounds good; in practice, we need to see if it facilitates settlements to continue to justify its existence.

I believe that any form of ADR is potentially very advantageous to clients.

Good, and needed program. helps control costs (to client) which is necessary if our profession is to survive.

If it is going to be used, there needs to be some risk reward astrik.

I do not know exactly how the conference are handled but I assume it is in nature of mediation. I believe attorneys who are trained and experienced in mediation should be used and not retired members of judiciary.

The federal appeals court program has worked well in part.

Settlement efforts at any stage of proceedings are beneficial.

Should be mandatory.

I believe it is a good idea in the abstract through I have not been through the specific process used here.

I believe it is a good program but cannot survive if same are not scheduled by the court without consent of the parties.

scheduled by the court without consent of the parties.

I think it is an encouraging concept.

It's a great idea, but it should be mandatory.

The program could be very helpful in providing a second opinion on the issue involved. It seems that some attorneys would rather generate the additional fees for the appellate work than to compromise.

Great concept. Lacks incentive though for prevailing party below to agree to settlement.

Should have one available at least.

Good idea, but merely a formality for some appellants.

Great idea. Any time the court can require both sides to get together to discuss settlement it's a good idea.

Other side objected.

the opposing party refused to participate.

Should be mandatory.

Parties too far apart to make it worthwhile.

As yet, had no practical experience.

No foundation for such evaluation.

A desirable program. Should do some good - sometimes for court and clients (money).

I would be happy to participate as the opportunity arises.

Unfamiliar enough to comment.

Make mandatory.

I believe the program will facilitate settlement of more cases before hearings in the appellate process.

Client withdrew prior to appeal.

Good idea. Always good to ask if settlement is possible.

Good idea.

Excellent program. Serves to expedite decisions, clear crowded dockets, and reduce trial and appeal expenses as well as the above.

It is a needed alternative to appeal process.

I feel it is a good idea and should be continued.

I am very in favor of it. Any ADR procedure is a wise action.

If either party requests, I suggest a conference be held.

I do not know if it is resolving many cases.

Lawyers should be reminded of it.

I have not used this program yet, so I cannot comment.

There appeals little incentive to use the settlement conference in the cases I have handled.

Compel the conference.

I think it would be valuable. We often try to settle cases on appeal and having a court sponsored program to help facilitate settlement would be helpful.

Good concept.

Have not had the occasion to use it.

Good program, will use again.

Should be mandatory to eliminate above.

Good idea.

Good idea;

make it mandatory/maybe.

In theory, I agree with the concept. I hope to have the opportunity to use it.

an excellent program.

Settlement is a worthy goal at any stage of proceedings. However, I find that the topic has been breached numerous times without success during the course of a case and doing so again at the threshold of appeal.

Appellee would not agree.

I strongly favor an ADR approach.

little incentive to use it.

It is helpful in these cases where neither party is satisfied with the trial court's judgment.

Think this would be good program.

I am not aware of the requirements or administration of program.

I'd like to know about it.

Since appeals are so often used as a final settlement strategy, these conferences are very valuable.

No experience with it.

While I have not used the appellate conf. I have in many other jurisdictions and it has been successful.

I think it is a good idea.

If more sanctions were imposed for frivolous appeals and were imposed more often it would be unnecessary.

Agree with concept.

Unknown - never used before.

One or both parties rejected settlement conference.

I think it is very valuable.

Valuable.

I thouight the settlement conference was extremely helpful. Perhaps if it had been instituted at the beginning of the case, the case would have settled earlier.

This is a great program and it should continue.

I believe the process is the only reason this case settled and the judge presiding was able to urge settlement without the normal time pressure of trial or appellate time frame.

This is a good program.

Judge Jack Ethridge was excellent.

The program, at least, prompted the parties to begin discussing

settlement. Prior to the settlement conference we word "settlement" had not been mentioned.

Good meeting. Simply had unreasonable client.

I think that the program would be good for the right cases.

Worthwhile - all courts should be involved in the settlement process.

I would like to have some information on this.
Not enough information to comment.

The appeal was frivolous and without merit, so there was nothing to discuss.

Probably unnecessary

Although I have not had an occasion to utilize the program, I do believe it would be very beneficial in timing of setting those case on final review of procedural matters and equitable matters.

I have found that in most cases, appellees were disinterested in discussing settlement on reasonable terms.

It will work only if both parties wish to resolve the claim.

Good idea, although I haven't settled anything there yet.

At this point, settlement has already been fully explored (at least in our cases.)

It is only useful for the "right" case. Many cases it has no use.

I thought it was an excellent way to attempt to settle the case. I feel settlement conference at any stage at legal proceedings are helpful.

Unsure, pending completion.

More emphasis on negotiating skills in legal training would allow for greater success of your settlement program. We're taught to be so antagonistic, that bringing plaintiff and defendant together in whatever small amount of common ground they share is almost impossible.

I am in favor of it.

I think the idea is a good one and it ought to be continued. There are many cases where it could help resolve disputes. There will always be cases where settlement is not possible so I do not

Settlement court at appellate level is waste of time.

Clients are paying for appeals. If the matter was subject to settlement, it would probably have happened before (or immediately after) trial.

I have found it to be effective. I have used it twice. Once the case settled. I am awaiting scheduling of a settlement conference in the second matter.

The program seems more useful where the amount in dispute is small.

The program ia a good idea and should be continued.

Probably a good idea, but only if the settlement conference is discretionary with the parties.

What is it and how do I do it>

Totally unaware of program's existence. Cant imagine it being an effective means of settlement.

I look forward to trying it.

Unless mandatory it's just more paperwork with no result.

It is a good program if lawyers will use it.

I read all of the Georgia advance sheets. I feel I can predict the outcome of a case in the court of appeals as well as anyone else. A settlement conference would be unlikely to change my mind on the possible outcome in the Court.

Good idea but not likely to work except in cases involving money damages.

Would prevent expense of additional litigation in some cases.

I think it can be an effective program because there are a very large number of appeals

I feel it is fairly useless. The parties obviously couldn't settle the matter in trial court - why would they settle now?

In followup to the previous stage, a party appealing an adverse ruling in the trial court in most cases is probably not predisposed to settling the case.

No. On smaller cases where appeal is by application, mandatory participation only adds unwarranted time and expense for our clients and attorneys.

I didn't know that much about it.

It is unnecessary.

Without mandatory requirement, settlement conference will not be held. However, by the time the case reaches the court of appeals, settlement probably is of little value.

Waste of time and effort.

I feel it may be more applicable to large business litigation cases.

Will not work - only on special cases.

I believe the program could be beneficial in an appropriate case.

At best, it is merely another took or opportunity for the plaintiff to obtain money from the defendant.

Excellent idea in most cases.

Not too effective.

I cannot imagine a case at the appellate level which would be resolved by this process.

My recent appeals were not on appeals from verdict and judgment but on issues decided by judge who granted certificate of immediate review.

It is my impression that lawyers from the larger firms who bill by the hour are most interested in submitting their case to the three judge panel.

The court needs to take a more active position. Judges need to be the moving force to the parties to the table.

Written "mini briefs" should be submitted for clearer understanding. Written "informal" opinions should be issued after the conference.

Judge Braswell Deen helped us settle a case which would not otherwise settled.

The settlement conference requirement is dumb unless it is mandatory or the party who is not appealing will never participate. It's just another dumb decision by the Georgia Court of Appeals

In a case involving question of first impression, settlement

judge is in no position to predict outcome.

Our retired judge was not a forceful mediator; parties and insurance representatives should have been required to be present.

Not enough incentives or "teeth" to make settlement likely.

Need a strong mediator for it to be effective; otherwise, it's a waste of time.

It's a total joke. It's useless.

Waste of time. The judges do what it takes to effectively bring the parties together in settlement.

Waste of time; a retired judge attempted to arm twist a settlement; appellee simply refused to follow his suggested course of conduct. There is simply no incentive to settle on part of any appellee.

I have only used it once and my case was delayed for months. I have not nor will I subsequently use it.

7. SPECIFICALLY, IN WHAT WAYS COULD THE PROGRAM BE IMPORVED?

Cannot say at this time. I do not have enough information about program.

Make it mandatory; and/or require each party to submit a brief explaining why settlement would not be facilitated by conference.

Restore direct appeals in domestic relations cases with offer of settlement or "high/low" offers within 10 days. (mandatory settlement conference). Settlement conference should result in recommendation to trial court.

The entire system of handling appeals by eliminating the formality and sitting around a conference table to discuss settlement and to argue appeals.

A change in attorneys attitudes. More consistent appellate results; fewer ad hoc decisions; less deference to trial judges and juries.

It should be mandatory.

Decrease penalties for losing appeal. Require losing party at trial pay costs.

I do not know exactly how the conference are handled but I assume it is in nature of mediation. I believe attorneys who are trained and experienced in mediation should be used and not retired members of judiciary.

The federal appeals court program has worked well in part.

I do not understand it.

I am unfamiliar with the program and therefore, am not prepared to provide any meaningful suggestions for improvement.

Should be mandatory.

Allow judges to schedule if warranted.

Allow for exceptions.

Not familiar enough with process to comment.

It would speed up and simplify the appellate process.

The incentives to the parties need to be made clear; perhaps statistics on reversals would induce intransigent parties to the table.

Make attendance mandatory for both parties - like mediation order.

Make it mandatory.

Not known at this time.

Spread it to the trial court.

Yes. Most cases are capable of settlement if the parties become focused and are forced to become more realistic about their positions.

Don't know enough to answer.

Try to save litigants time and money. Maybe should be some Make the process mandatory.

Program is currently ineffective since any party can opt out.

An attempt to save time and expense with almost nothing to lose by either party.

Not having been a direct participate I cannot make recommendations for improvement.

Telephone conferences instead of in-person conferences.

I don't know.

Make it mandatory but not binding.

Make it mandatory.

I cannot say at this time.

Eliminate the idea that the settlement conference portends a compromise of the verdict. Judge should find, for example, that the verdict and judgment should stand as it is. Generally the purpose of the conference is to soften the blow to the loser and to let the winner keep part of the verdict already won.

Compel the conference.

Make it mandatory.

Have not had opportunity to use.

Make it mandatory.

Can't say.

Require participation in program.

Don't know.

Get the word out to more members of the legal community.

Send out a direct mailing - talk it up at meeting.

It needs more advertising.

Sorry, unknown.

Have not actually experienced the program.

I have not examined the program closely, but it should have allowances for partial appeal of certain theories of reservation for specific legal issues to Georgia Supreme Court.

Mandate that parties and representatives attend.

Require attorneys at appeal at the conference with some authority to settle case. Make substance of the settlement conference available to the Court of Appeals. Allow the Court of Appeals to enhance money damages awards in cases where a bona fide offer was rejected and the rejecting party loses on appeal.

Delete the program.

It will work only if both parties wish to resolve the claim.

Satisfactory as it is.

CLE programs - more on negotiating skills - not just an explanation of different ADR techniques. Maybe even a CLE requirement in this area as part of trial practice credits?

I think the idea is a good one and it ought to be continued. There are many cases where it could help resolve disputes. There will always be cases where settlement is not possible so I do not think it should be mandatory for all cases.

Eliminate it. Make it strictly voluntary.

Eliminate it. The appellate process is complicated enough already.

Outline incentives to insurance company of conferences so they will understand advantages and disadvantages. Have parties fully understand the conference and its purpose.

Do not push for such an early resolution, particularly in complex cases.

Require a settlement calendar call.

Mandatory in all non-jury won discretionary appeals where amount is less than $20,000.

The conference should include some discussion of the merits of the appeal issues.

Better notice, perhaps require that attorneys respond in writing on a form before oral argument.

If any cases are being settled, they should be publicized in order that other practioners may be aware of how the program can benefit their clients.

The problem with mediation in generally is they are unwilling to recognize that some appeals are frivolous. They always proceed from the assumption that the parties should each give a little. IN those cases, the mediator becomes the agents of a court sanctions shakedown.

Abolish it.

Scrap it.

Please No.

Do not know.

Settlement conference/mediation should occur before trial, not afterwards.

Eliminate it. We don't need this extra red tape, expense and bureaucracy.

I think a more formal environment, such as a courtroom, with the settlement conference judge sitting on the bench might be helpful.

Judge who conducts conference needs training in settlement techniques. My case simply assigned to senior superior court judge.

If the program has had a positive result, I would be interested in a CLE program about it.

Publish the results of each settlement conference. Other lawyers may take the opportunity to use the process.

The court needs to take a more active position. Judges need to be the moving force to the parties to the table.

Written "mini briefs" should be submitted for clearer understanding. Written "informal" opinions should be issued after the conference.

Screen out those matters which do not require conference.

Utilize "English" style. After argument, judge offers oral ruling on legal issues following by any discussion. Have each party submit two citations per issue prior to conference.

Abolish it.

Need strong mediators.

It's a total joke. It's useless.

Make it mandatory that each side have authority to settle the case before wasting time and resources.

Use trained arbitrators.

8. SHOULD PARTICIPATION IN THE APPELLATE SETTLEMENT CONFERENCE BE REQUIRED IN ALL CASES DOCKETED IN THE COURT OF APPEALS AS PART OF THE NORMAL APPELLATE PROCESS?

(These voted no on mandatory participation.)

No. There are definitely cases that it would be a waste of everyones' time to have a settlement conference.

No. There are some cases where there is no chance of settlement.

No. Cases involving lower monetary value may benefit as to time/costs restraints.

No. The last case I had before the Court of Appeals was still pending in the trial court, but the case was docketed, briefs were required, and 20-minute arguments were allowed. Mandatory settlement conference would only waste more time in such cases.

No. It should be voluntary.

No. In many cases at this level settlement is not a creative possibility.

No. In many cases at this level settlement is not a realistic possibility.

No. By the time case reaches Court of Appeals, expenses and fees are high; in small cases some effort should be made to avoid adding fees and expenses.

No. It is my opinion that the procedure is a waste of time.

No. The appellate process taken entirely too long now. Justice delayed is injustice. Most clients want their final answer, not another interim answer.

No. Absolutely because we have judges for that purpose.

No. If, as in my case, an attorney knows the case can't be settled, his client should not be forced to bear the cost of a hopeless settlement conference. If the parties can't voluntarily agree to talk, they are not likely to agree on settlement.

No. Because, as in the case involving my appeal, the matter is one of law which needed clarification by the Court. There at least needs to be some screening process to determine candidates.

No. Unless all parties are interested in meaningfully discussing settlement, participation in the process would not be useful.

No. Cases which involve strictly legal issues should not be deprived of a legal opinion solely for economy or convenience.

Not every case should be settled.

No. This procedure was tried in Michigan and was a failure. Past experience is a good teacher.

No. Probably not. Mediation requires commitment. Good program.

No. On voluntary basis. Both sides are "geared" toward settlement rather than winning or losing the appeal and thus, has a higher chance of being resolved.

No. I believe a statement regarding settlement effort and posture would be sufficient.

No. Make it available, not mandatory.

No. Should be only where attorneys willing to participate

No. Would only delay the appeals process longer. If a client does not want to settle, you can['t make them do it.

No. However, should require statement from attorneys why settlement is an inappropriate avenue.

No. Not all cases should be settled.

No. Please do not require lawyers to waste their time if there is no way to settle a case.

No. Forced ADR in the middle of litigation rarely wins in my experience.

No. Each case has to be judged on its merits. This, in my opinion, cannot be asserted ;by a yes or no. Though involuntary matter attempts should be had to settle through a reasonable compromise.

No. I would be reluctant to require sometimes. However, it should be strongly encouraged.

No. A waste of time.

No. The parties should be allowed to decide if they can benefit as set forth above. If required in all cases, it would increase costs of appeal and delay decisions.

No. The Court of Appeals process is too slow already.

No. I believe in most cases it will simply be an added step. Therefore, added expenses. A mandatory settlement conference in my opinion is much more helpful at the trial level stage, either at the very beginning of a case, or after discovery ends, or

both. By the time a case reaches the appellate courts, all parties are, in most cases, much more willing to "role the dice."

No. This would just add a mandatory layer of bureaucracy and expense in the process. The discretion of the parties needs to be retained as a part of the process.

No. Lawyers and parties can settle a case anything they want, with or without it being mandatory.

No. Waste of time.

No. At this point of litigation, it is clear cannot be settled on a great many instances. Would be a waste of time.

No. Depends - where issues of legality exists.

No. I am against required settlement conference - all cases.

No. An elective process will allow those to participate who have a legitimate interest in settlement and will avoid bogging down the process with those intent on pursuing the appeal.

No. That is just adding another layer to the system and will slow the appellate proces.

No. But it should be required in most civil cases.

No. In some cases it would be a waste of time, especially since the parties have litigated to the appellate stage without reaching a settlement.

No. In some cases there is no way to settle them for example if the ruling in the case is contrary to the law.

No. Even though I know absolutely nothing about this program which is probably beneficial, it should not be mandatory.

No. It should be voluntary. Some cases just need appellate resolution and the process would waste time.

No. Removes freedom of choice. However, I do not think more cases would settle if procedure were mandatory.

No. How many times do cases settle for $0. Some cases should not require payment. How else can cases of no merit be resolved.

No. It should be optional with some cases requiring to go as determined by trial judge if no settlement conference has been previously held.

No. Need to go to the judges - especially older litigated and

relitigated cases.

No. Time consuming and increased cost for litigants and for the court.

No. If the parties have gone this far, it is unlikely settlement conference will be helpful. Efforts to settle at an earlier stage would be better.

No. The choice to use or not to use should remain with the parties.

No. I believe that the program is better served where lawyers for both parties decide that the settlement conference may be beneficial. IN cases where one of the parties do not want to participate in a settlement conference, then I believe they should not be required to do so. Otherwise the purpose of the settlement conference would not be served.

No. There are simply cases that counsel know will not be settled and the conference merely delays and increases costs.

No. Don't require participation in the conference, but require a statement in open court. I am not sure what the administrative burden would be. However, I would make sure that the attorneys appear in person, if at all, not jurors or intermediaries.

No. If a party does not want it, it would likely be a waste of time.

No. In Fulton County the appeal process is already inexcusably long; most appeals due to the cash are already somewhat screened.

No. Because the attorneys know in some cases that such a conference would not be helpful and should be able to decide whether or not to participate.

No. By the time a case is tried the positions of the parties are fixed and there is little likelihood of settlement.

No, but it certainly should be encourage. There are many cases where public policy would be better served by setting a precedent, thus, appellate settlement conferences should not be required.

No. I don't have enough experience to know.

No. If there is a chance to settle, both sides will agree with the procedure.

No. Some issues need to be resolved in a manner which has precedential value to the bar.

No. Some cases the attorney knows will not be settled and it would be a waste of time.

No. Issues are solidly formed before the appellate level. A settlement conference would normally serve no useful purpose.

No. If the lawyers can't settle by that point, do you really think and ASC would do the trick?

No. Some cases simply don't lend themselves to it and some parties simply won't, don't require us to waste our time.

No. I doubt I would be much benefit as most individuals negotiate all during that time anyway.,

No. Settlements have already been tried before during and after trials.

No. Bypass or put another step in the way of a persons' right to appeal. An appeal is a right.

No. I don't know. While I generally believe in getting the parties together to discuss settlement, I question whether there is much hope of working out settlements by the time the parties are at the appeal stage.

No. Efforts at settlement usually exhausted by this stage.

No. I'm not convinced that the appellate stage of litigation is an especially likely place for settlement to make sense. - mandatory settlement efforts would just increase attorney fees without producing enough good results to justify the expense.

No. expenses.--

No. Appellate procedure is clearly over technical with plenty of traps for the unwary. If the procedure is streamlined, then some possible mandatory conference could be required.

No. Some cases clearly are not of the type which the appellate conference should address.

No. It is a waste of time if participants are not willing.

No. Trial practice is being made more expense with each level of judicially mandated activity - settlement conferences are a part of that. They rarely produce results that would not have obtained in any event.

No - not enough time.

No. Cases should be screened and selected cases required to undergo settlement conference.

No - once again a waste of time and money.

No. Client might feel pressured to accept less than they feel fair.

No. Generally not needed at the appellate level.

No. Absolutely not. There should be settlement conference before trial as a matter of rule under the DPA or uniform rules without trial court participating. It is too late after judgment.

No. The delay and cost would be excessive.

No. there are just certain cases in which settlement would be practical and appropriate.

No. Many cases will have no possibility of benefit. To mandate futile action causes unnecessary waste of time and money.

No. From the standpoint of appellate litigants looking to "expedite" their case, the settlement conference appears to be an additional process to delay the final resolution of their case.

No. On smaller cases where appeal is by application, mandatory participation only adds unwarranted time and expense for our clients and attorneys.

No. Adds time and expense.

No. Some cases are appealed in order to get some law on the books in the form of appellate opinions.

No. I do not feel it will help settle cases.

No. I believe a party has a right to have the client his case.

No. Unnecessary additional expense to client.

No. Most appeals turn upon points of law and mandatory participation would simply add to the cost of litigation.

No. parties reject.

No. Please No.

No. Would undo previous steps.

No. Maybe not. Perhaps it should be mandatory before Court of Appeals will consider applications for discretionary appeals.

No. We don't need another level of bureaucracy,. increased funding to the courts. Add more judges.

No. Delay.

No. clients object to yet additional costs.

No. Not suitable for settlement conference when issues of law are present.

No. Process will not work if both parties do not want to seek compromise.

No. Added expense.

No. It will simply increase the hoops to jump through to complete a case. If it is not binding, the appeal will simply continue particularly if a party feels strongly about his position.

No. As long as attorneys can pick up the phone and talk, why require a conference? Also, if an attorney appeals, it is often for purposes of delay or misapprehension of the law.

No. Additional expense.

No. Matters most solely on interpretation of law.

No. Collection type litigation is better suited for the conference.

No. Certificate of review cases won't get into settlement posture until opinion released.

No. As a mediator in the Whitfield County court system, I have learned that most but no all litigants are interested in settling at an appellate level. Where one litigant has an obvious "power" the incentive to settle lessens even more. I believe it is important to offer the settlement conference to litigants in an attractive manner but mandatory participation would probably not enhance the probability of amicable settlement.

No. many pro se cases are frivolous.

8. SHOULD PARTICIPATIO IN THE APPELLATE SETTLEMENT CONFERENCE BE REQUIRED IN ALL CASES DOCKETED IN THE COURT OF APPEALS AS PART OF THE NORMAL APPELLATE PROCESS?

(These voted yes on mandatory participation.)

Yes. Compromise and settlement is part of an attorney's business. Too many frivolous appeals in appellate system.

If it's going to be used at all it probably needs to be required.

Yes. Ease of administration. No need to be concerned with exceptions for certain types of cases.

The burden should be put in the litigants to avoid the appellate settlement conference.

Yes. I believe some attorneys see the appellate process as another opportunity to "create" attorney fees. A mandatory and sobering conference, where the attorney must explain his position may help in those cases where the attorney's interest is not aligned with the interests of the client.

Yes. See above.

Yes. Unless both parties refuse it.

Yes. As in lower court compulsory arbitration/settlement conference, such meetings tend to break down barriers between parties and locate middle ground.

Another way to reduce caseload.

Yes. All attorneys should be required to attend and come with a good faith effort to resolve the litigation, with penalties for failing to make a good faith effort.

Yes. to focus on issues.

Yes. In most cases one side or the other will reject. Waver should occur only if both sides reject.

Yes. If there are trained negotiators assigned; no if this will entail further delay into a process fraught with delay.

Yes. The winner is generally not inclined to pursue this process.

Yes. appellee has no incentive otherwise.

Yes. Mandatory participation would eliminate incooperative counsel.

Yes. All civil cases.

Yes. Expedite settlement and dispose of appeals.

Yes. I think so.

Yes. Because I feel that both parties and lawyers should be compelled to lay emotional and other non-substantive considerations aside and make a concentrated effort to resolve their differences and by so doing, relieving the system of those matters that do not warrant appellate treatment.

Yes. So long as it does not have impact on court's perception of the appeal.

Yes. To save litigants money.

Yes. But allow for exceptions.

Yes. It would speed up and simplify the appellate process.

Yes. This would give the parties a forum in which they could present their case to get another opinion.

Yes. never know when it might work and cut down on appellate litigations.

Yes. Get the parties together at least one; in our case probably no harm done from a half hour conference. In many cases it could yield significant gains.

Yes. Because it requires parties to evaluate their cases more often for settlement.

Yes. It may reduce case load and increase settlements.

Yes. Because even if a few cases were settled, it would free up the court docket without using more restrictive methods, like making more appeals "discretionary."

Yes. Otherwise, it is difficult for both attorneys to consent to confer.

Yes. To make a offering people must participate.

Yes. There are too many frivolous appeals and not enough

communication in the appellate format.

Yes. If discussion is forced some good may come of it.

Yes. Probably. If I understand the process it should give both sides an opportunity to reevaluate their positions based upon third party views (or reactions), tending to level the earlier, less expensive resolution.

Yes. To expedite appeal resolution.

Yes. Based upon my experience in trial level courts, such programs help expedite matters by narrowing the issues and induce more settlements.

Yes. To courage dialogue between opposing counsel with regard to settlement of disputed claims.
Yes. But prefer in trial court.

Yes. At least be required to formally reject after required settlement contact with opposing party.

Yes. Probably, would lead to more compromise.

Yes. Most cases are capable of settlement if the parties become focused and are forced to become more realistic about their positions.

Yes. All forms of ADR should be encouraged in order to reduce burden on courts.

Yes. Try to save litigants time and money. Maybe should be some exceptions to mandatory participation.

Yes. Anything that offers opportunity to settle without further expense should be encouraged.
Yes. In all civil cases there should be a condition of further right of appeal, first have a "ACA".

Yes. Anything that serves to shorten the process would be welcome.

Yes. Public perception of tedious civil trial process.

Yes. Resolution by settlement, if possible, which is not always, is preferable.

Yes. Program is currently ineffective since any party can opt out.

Yes. An attempt to save time and expense with almost nothing to

lose by either party.

Yes. I believe that any procedure that can speed up the litigation process would be very beneficial to all parties.

Yes. Assuming tat the parties may opt out at will.

Yes. Because of need for settlement, extraordinary costs and backlog of cases.

Yes. See above, but needs to be administer by third party.

Yes. Save the "system" and the parties time and money if settlement possible; one more try at streamline the system.

Yes. Virtually every case can be settled if the parties really try.

Yes. With screening.

Yes. The court's docket would benefit, clearing the way for quicker decisions on those cases the court has to decide.

Yes. To discourage frivolous appeals.

Yes. Only a mandatory program could settle a meaningful number of cases.

Yes. If they can be done by telephone.

Yes. Most litigants will not avail themselves of ADR procedures unless forced to do so.

Yes. It should facilitate resolution of claims.

Yes. To settle cases without further time and cost.

Yes. Otherwise the process will not be effective.

Yes. Requiring ASC might increase the program's exposure and give consistency to the appeals process.

Yes. Required participation would decrease paperwork involved in deciding whether to participate. A party should be able to decline participation.

Yes. It will speed the entire appeals process.

Yes. I believe it will result in more settlements before more expense is incurred.

Yes. At least temporarily, for realistic assessment of program. Not sufficient used at this point.

Yes. Unless both parties consent to not participate. So long as one party wants it, it should be mandatory.

I generally favor mandatory settlement conferences, but they must have a facilitator who is active in pushing settlement (equitable and fairly) and in exploring avenues for settlement. Otherwise process is a waste of time in many cases.

Yes. The workload of the court is excessive. Non binding mandatory arbitration may be a better alternative to a longer court or more restrictions on appeals.

Yes. I think that it would lend to the resolution of a number of cases.

Yes. If parties were required to attend and get a realistic impartial evaluation of their appeal, more cases might settle.

Yes. Otherwise it will not be utilized.

Not required, but strongly encouraged.

Yes. Adverse insight to appellate court thinking on issues should encourage settlement and reduce calendar load.

Yes. More settlements might be reached.

Yes. Otherwise, it will not be used.

Yes. narrow issues, find points of agreement.

Yes. while it may be necessary to have some sort of screening process to week out cases, the program would certainly resolve more cases if all cases re assigned.

Yes. Then more participation might be helpful.

Yes. To aide in expeditious resolution of case.

Yes. Lawyers won't take time to do unless forced.

Yes. This is a good post trial "filter" to process legal questions through after they have been refined through motion or trial hearings. Shortly after trial everyone is most focused not only on legal questions that arose, but on tactics, witness performance, jury and court reaction to case. These factors make

this a good time for a required realistic settlement conference.

Yes. Some more traditional attorneys will otherwise routinely refuse it.

Yes. OFten it is the party who refuses to consent to the conference that will benefit most from it.

Yes. The downside, make client and lawyer time, is far outweighed by the possibility of resolution without resort to hearing.

Yes. When there are factual issues.

Yes. Clear dockets somewhat.

Yes. Anything that can be done to speed up the process of litigation or reduce costs should be strongly considered.

Why not?

Yes. But a process that allows certain cases to opt out with approval of the program might be helpful.

Yes. Reduce backlog.

Yes. I used the procedure in CA - very successful. Good idea.

Yes. Judicial economy.
Yes. It could be required between the filing of notice of appeal and filing of the brief in order to bring quicker resolution with less time and expense.

Yes. Judicial economy.

Yes. Reduce costs, delays.

Yes. To expedite resolution of longstanding cases.

Yes. Otherwise, it will be ineffective.

Yes. Needs to be productive and both sets of attorneys need to understand process.

Yes. If cases are finally settled - otherwise was of resources.

Yes. To get more parties to once again give serious consideration to merits/weaknesses of their case. It would be good; helpful if mediator was experienced enough to shed light on likelihood of appellant's winning or losing on appeal.

Yes. As long as client's rights are not jeopardized by any

delay.

Yes. In order to save time and expenses it should be required.

Yes. Helps dispose of frivolous appeals; gets parties to talk in a supervised atmosphere with experienced judicial asssistance.

Yes. As long as it does not delay appeal. I didn't think our case had any chance of settlement, but was pleasantly surprised.

Yes. Forces parties to address settlement.

Yes. Forces the parties to communicate.

State of Alabama
Unified Judicial System

Form ARAP-24 (front) Rev. 10/93

DOCKETING STATEMENT
Appeal to the Supreme Court of Alabama

NOTE: Completed Civil Case Cover Sheet must be attached.

Supreme Court Case Number
(To be filled in by Supreme Court.)

COUNTY	CIVIL ACTION NUMBER	TRIAL JUDGE

I. PARTY/PARTIES FILING APPEAL (Appellant): _____

APPELLANT'S ATTORNEY: _____ ( ) _____
Telephone Number

_____
Address *City* *State* *Zip Code*

II. PARTY/PARTIES APPEALED AGAINST (Appellee): _____

APPELLEE'S ATTORNEY: _____ ( ) _____
Telephone Number

_____
Address *City* *State* *Zip Code*

III. APPELLANT IS THE TRIAL COURT: ☐ Plaintiff ☐ Defendant ☐ Other

IV. IS THIS A CROSS-APPEAL? ☐ Yes ☐ No

V. RELIEF AWARDED/REQUESTED: Please check the appropriate block(s) and complete the appropriate statement(s) in this section that properly describe the type of relief at issue in this appeal.

A. _____ The primary issue(s) before the Supreme Court involve(s) an award of or an unsuccessful demand for monetary damages in the trial court. *(Please provide the details of the monetary demands and awards in the "FACTS" section on the back of this form.)*

1. Compensatory damages were:
   (a) ☐ awarded in the amount of $ _____;
   (b) ☐ not awarded, but sought in the amount of $ _____;
   (c) ☐ sought, but not awarded - the amount sought was not specified in the complaint.

2. Punitive damages were:
   (a) ☐ awarded in the amount of $ _____;
   (b) ☐ not awarded, but sought in the amount of $ _____;
   (c) ☐ sought, but not awarded - the amount sought was not specified in the complaint.

3. A general award of damages (not differentiating between compensatory and punitive) was:
   (a) ☐ made in the amount of $ _____;
   (b) ☐ not made, but sought in the amount of $ _____;
   (c) ☐ sought, but not made - the amount sought was not specified in the complaint.

4. Other monetary damages (*Type:* _____ _____) were:
   (a) ☐ awarded in the amount of $ _____;
   (b) ☐ not awarded, but sought in the amount of $ _____;
   (c) ☐ sought, but not awarded - the amount sought was not specified in the complaint.

5. Was there a remittitur or additur at issue in the trial court? ☐ Yes ☐ No
   (If yes, please provide the details in the "FACTS" section on the back of this form.)

B. _____ The primary issue(s) before the Supreme Court is/are equitable and/or declaratory in nature.

C. _____ The primary issue(s) before the Supreme Court is/are one(s) other than those mentioned above.
(Please provide the details of the issue(s) before the Court in the "ISSUES" section on the back of this form.)

VI. TYPE OF JUDGMENT OR ORDER APPEALED. (Please check one):

A ☐ Judgment based on a Jury Verdict
B ☐ Judgment based on a Non-Jury Decision
C ☐ Judgment Notwithstanding the Verdict (JNOV)
D ☐ Order granting a New Trial
E ☐ Judgment based on a Directed Verdict
F ☐ Summary Judgment
G ☐ Dismissal
H ☐ Default Judgment
I ☐ Other

VII. IF THE CASE WENT TO TRIAL, HOW MANY DAYS DID THE TRIAL TAKE? _____

VIII. FINALITY OF JUDGMENT : Date of entry of judgment or order appealed from: _____
Month Day Year

1. Is the judgment or order appealed from in compliance with Rule 58, A.R.Civ.P.? ☐ Yes ☐ No
2. Does the order appealed from constitute a disposition of all claims as to all parties? ☐ Yes ☐ No
3. If not, did the trial court enter an order intended to make the order final pursuant to Rule 54(b)? ☐ Yes ☐ No
4. If the trial court intended to make the order appealed from final pursuant to Rule 54(b), did the court in the Rule 54(b) order expressly determine that there was no just reason for delay and expressly direct that final judgment be entered? ☐ Yes ☐ No
5. If the answer to question 2 is "NO", and the trial court did not make the order final by full compliance with Rule 54(b), please explain the basis for seeking appellate review and cite the authority for this appeal:

_____

_____

IX. POST-JUDGMENT MOTIONS: List all post-judgment motions by date of filing, type, and date of disposition (whether by trial court order or by the provisions of Rule 59.1, A.R.Civ.P.):

DATE OF FILING			TYPE OF POST-JUDGMENT MOTION	DATE OF DISPOSITION		
Month	Day	Year		Month	Day	Year

X. CONSTITUTIONAL ISSUES:

1. Are the provisions of Rule 44, A.R.App.P., applicable to this appeal? ☐ Yes ☐ No
2. If so, have the provisions been complied with? ☐ Yes ☐ No

XI. NATURE OF CASE ON APPEAL: In the left column of boxes preceding the categories listed below, check the box (check only one) that best describes or categorizes the basis or theory of the primary issue on appeal. In the right column of boxes, check any secondary theories that are applicable to the suit.

TORTS:
- 01 ☐☐ Bad Faith
- 02 ☐☐ Fraud
- 03 ☐☐ Legal Malpractice
- 04 ☐☐ Medical Malpractice
- 05 ☐☐ Other Malpractice
- 06 ☐☐ Products/AEMLD
- 07 ☐☐ Negligence (Vehicular)
- 08 ☐☐ Negligence (General/Other)
- 09 ☐☐ Personal Property
- 10 ☐☐ Real Property
- 11 ☐☐ Wrongful Death (All Types)
- 12 ☐☐ Wantonness
- 13 ☐☐ Conversion
- 14 ☐☐ Wrongful Employ. Termination
- 15 ☐☐ Premises Liability
- 16 ☐☐ Outrage
- 29 ☐☐ Other: _____

CONTRACTS:
- 30 ☐☐ Commercial
- 31 ☐☐ Personal
- 32 ☐☐ Pension
- 33 ☐☐ Insurance
- 34 ☐☐ Employment
- 39 ☐☐ Other: _____

OTHER:
- 40 ☐☐ Real Property
- 41 ☐☐ Civil Rights (Prisoner)
- 42 ☐☐ Civil Rights (Other)
- 43 ☐☐ Wills/Trusts/Estates
- 44 ☐☐ Declaratory Judgment
- 45 ☐☐ Injunction (Commercial)
- 46 ☐☐ Injunction (Employment)
- 47 ☐☐ Injunction (Other)
- 48 ☐☐ Extraordinary Writ
- 49 ☐☐ Pub.Service Comm
- 50 ☐☐ RR/Seaman(FELA)
- 51 ☐☐ RICO
- 99 ☐☐ Other: _____

XII. ISSUES: Briefly summarize the issue(s) on appeal. This information is for case management and statistical purposes only.

XIII. FACTS: Without argument, briefly summarize the facts to inform the court of the nature of the case. This information is for case management and statistical purposes only.

XIV. TRANSFER TO THE COURT OF CIVIL APPEALS BY DEFLECTION: Pursuant to § 12-2-7, *Code of Alabama 1975*, the Supreme Court has the authority to transfer any civil cases within its jurisdiction to the Court of Civil Appeals, except cases presenting a substantial question of federal or state constitutional law; cases involving a novel legal question, the resolution of which will have statewide impact; utility rate cases appealed pursuant to § 37-1-140, *Code of Alabama 1975*; bond validation cases appealed pursuant to § 6-6-754, *Code of Alabama 1975*; or Alabama State Bar disciplinary proceedings. Please take notice that the Supreme Court will consider, within its discretion, the following categories of cases for transfer to the Court of Civil Appeals (subject to the exceptions stated above):

(1) Cases involving an amount in controversy of $50,000 or less, regardless of the basis of the claim appealed;
(2) Cases where the dispositive legal issue turns on the law of post-judgment enforcement procedures, including garnishments and executions;
(3) Cases where the dispositive legal issue turns on the law of mechanics' or materialmen's liens;
(4) Cases where the dispositive legal issue turns on commercial contract law; and
(5) Cases where the dispositive legal issue turns on real property law.

If this case falls within one of the categories to be considered for transfer and you believe it should **not** be transferred pursuant to § 12-2-7, please state with specificity the reason(s) why this case should **not** be transferred to the Court of civil Appeals:

_____

_____

XV. SETTLEMENT CONFERENCE: The Court may require that this case be subject to a moderated settlement conference. Do you think this case would be appropriate for such a conference? ☐ Yes ☐ No

Explain: _____

_____ _____

Date Signature of Attorney/ Party Filing this Form

MEMORANDUM

TO: Judge Edward H. Johnson

FROM: Perry Walinski

DATE: October 14, 1993

RE: Settlement Conference Procedure in Alabama

Several months ago, before sending a survey to the appellate court judges around the country, we were considering sending the survey to the appellate court clerks in other states. At that time, I spoke by phone to John Lazenby, Director of Appellate Case Management for the Supreme Court of Alabama, and followed up with a letter to him dated March 31, 1993, a copy of which is attached. I have recently received his response by letter dated September 24, 1993. I thought you would be interested in his response, and a copy is also attached for your information.

cc: Chief Judge Marion T. Pope, Jr.
Presiding Judge Andrew W. Birdsong, Jr.
Settlement Conference Chief Judge Arnold Shulman
Senior Appellate Court Judge John W. Sognier
Senior Appellate Court Judge Braswell D. Deen, Jr.
Senior Appellate Court Justice Hiram K. Undercofler

Appellate Settlement Conference
The Court of Appeals of Georgia
603 State Judicial Building
Atlanta, Georgia 30334
(404) 651-8498
Fax 651-8497

ARNOLD SHULMAN
SETTLEMENT CONFERENCE CHIEF JUDGE

PERRY HAYNIE
SETTLEMENT CONFERENCE CLERK

March 31, 1993

Mr. John Lazenby
Director of Appellate Case Management
Alabama Supreme Court
445 Dexter Avenue
Montgomery, Alabama 36130 (205) 242-4609

Dear John:

I enjoyed speaking with you by phone today and was interested in hearing about the settlement conference program in Alabama. I am looking forward to reviewing the materials you are sending.

I am enclosing a copy of the Rules of the Court of Appeals of Georgia. Rule 52 pertains to our settlement conference program. I am also enclosing a copy of the Settlement Conference Information Form which appellants and appellees are required to complete, as well as a copy of the cover letter which the court clerks use to forward the SCIF. I hope you will find this information useful.

As I mentioned to you, Judge Edward H. Johnson is reviewing our settlement conference program at the present time, and I am sure he would have some pertinent information for you. By copy of this letter, I am letting Judge Johnson know that you may be calling him sometime in the near future to discuss our program.

Again, it was a pleasure to talk to you, and if I can be of further assistance, please let me know.

Sincerely,

Perry Walinski

Perry Walinski
Settlement Conference Clerk

/pw
Enclosures
cc: Honorable Edward H. Johnson

SUPREME COURT OF ALABAMA

ROBERT G. ESDALE
CLERK
LOUISE B. LIVINGSTON
ASSISTANT CLERK

OFFICE OF THE CLERK
445 DEXTER AVENUE
MONTGOMERY, AL 36130
(205) 242-4609

September 24, 1993

Ms. Perry Walinski
Settlement Conference Clerk
The Court of Appeals of Georgia
603 State Judicial Building
Atlanta, GA 30334

RE: Appellate Settlement Conference

Dear Ms. Walinski:

Let me first apologize for my untimely response to our earlier conversation and your correspondence. We have been "full speed" in program development and plans for moving into a new judicial building. Please accept my apology for my oversight.

I have re-reviewed our settlement conference practices and thought I would give you a quick overview of our process. Upon filing, the appellant must file a docketing statement advising us of the nature of the case being initiated. A copy is enclosed. As part of that statement, they are required to advise the court if they believe that a settlement conference will be appropriate for their case.

We have found that a large number of appellates will answer "yes", while many of the appellees have no desire to negotiate their position. We screen each docketing statement to determine if we think that a settlement conference will be beneficial. If so, we direct potential cases to a settlement judge. Once assigned, his goal is to bring the settlement process to a conclusion within 21 days.

Upon referring the case to the settlement judge, the opposing party is notified and allowed to object to participating in the settlement process. If the appellee does so, the case is re-instated to the normal appellate track. I should note that all cases are docketed with the court, regardless of settlement activity. If a case is referred to settlement conference, all proceedings are stayed until further order. If settlement attempts fail, the case in restored to the appellate track and all time begins to run anew from the date of restoration.

We have one settlement judge. He is a retired associate justice of our Supreme Court with the personality and skills to effectively manage a settlement program. We recognize that many lack the skills to facilitate a good settlement process. This is extremely important.

At present, the retired justice managing our settlement program also accepts assignment of regular cases and drafts proposed opinions for the court. Under this circumstance, we realize that he may have more utility to the court by adjudicating the cases on their merits rather than attempting settlement. Quite simply, his measure of productivity (the number of cases in which he is responsible for disposing) may be much higher when he accepts cases for adjudication on their merits. Weighing of the cost of administering the program against the number of cases closed and the amount of litigation cost saved by the parties is a difficult process.

We have had marginal success. I believe that the program is a good program. Our problem is that we lack sufficient resources to "work" all the cases that express a willingness to discuss settlement. Consequently, we are forced to make judgment calls as to which are "most" likely to result in settlement. We have learned to recognize trends or type cases that we feel will be more or less receptive to settlement discussions. Since settlement conference requires travel and conference with the parties in their own region of the state, one judge has limited potential.

I've given much thought to the idea of having a more aggressive settlement program with 6 to 10 judges conducting settlement conferences in established regional areas of the state. If resources were available to implement such a program, I believe that our program would be far more productive.

Thank you again for your time and letter. If I can be of any further assistance, please do not hesitate to give me a call.

Sincerely,

John L. Hazenby
Director of Appellate Case Management

MEMORANDUM

TO: Judge Edward H. Johnson

FROM: Perry Walinski

DATE: October 6, 1993

RE: Settlement Conference Activity for July, August, and September, 1993

As you requested, I have prepared a breakdown of cases for July, August, and September, 1993.

Five new cases were assigned to settlement conference judges in July. One pending case was settled, and three pending cases were terminated.

Three new cases were assigned to settlement conference judges in August. Six pending cases were settled, and three pending cases were terminated.

Six new cases were assigned to settlement conference judges in September. Four pending cases were settled, and one pending case was terminated.

As of September 30, 1993, we have docketed a total of 290 settlement conference cases, with 115 cases settled, 153 cases terminated, and 22 cases pending. We have had a 43% success rate.

Attached is a copy of the first quarter expenses of the appellate settlement conference prepared by Kaye Carter.

For your information, I have also attached a copy of my letter dated September 2, 1993, to Nancy Kahnt, Communications Specialist with the Judicial Council of Georgia, responding to her request (also attached) for information regarding the activities of the settlement conference for fiscal year 1993.

cc: Chief Judge Marion T. Pope, Jr.
Presiding Judge Andrew W. Birdsong, Jr.
Settlement Conference Chief Judge Arnold Shulman
Senior Appellate Court Judge John W. Sognier
Senior Appellate Court Judge Braswell D. Deen, Jr.
Senior Appellate Court Justice Hiram K. Undercofler

APPELLATE SETTLEMENT
CONFERENCE
First Quarter Expenses

	JULY	AUGUST	SEPTEMBER	TOTAL
Personal Services	4,598.72	4,374.81	4,374.81	13,348.34
Compensation and fees pd Sr. Judges	660.00	495.00	1,894.98	3,049.98
Telecommunications	30.33	30.57	not avail.	60.90
TOTAL	5,289.05	4,900.38	6,269.79	16,459.22
Costs Collected	1,425.00	2,975.00	1,575.00	5,975.00

**Postage, copying costs, supplies, etc. can not be broken out because included in Clerk's Office

Appellate Settlement Conference
The Court of Appeals of Georgia
334 State Judicial Building
Atlanta, Georgia 30334
(404) 651-8498
Fax 651-6187

ARNOLD SHULMAN
SETTLEMENT CONFERENCE CHIEF JUDGE

PERRY WALINSKI
SETTLEMENT CONFERENCE CLERK

September 2, 1993

Ms. Nancy Kahnt
Communications Specialist
Judicial Council of Georgia
Administrative Office of the Courts
Suite 550
244 Washington Street, S.W.
Atlanta, Georgia 30334-5900

Dear Ms. Kahnt:

Settlement Conference Chief Judge Arnold Shulman has asked me to respond to your letter of August 20, 1993, regarding the activities of the Appellate Settlement Conference for fiscal year 1993. This office does not keep records on a fiscal year basis, and our response in the past has been to give your office figures going back to the beginning of the program to the date of our response. I have, however, tried to comply with your request and I have gone back through the files and have attempted to obtain numbers for the period requested. During fiscal year 1993 (July 1, 1992 - June 30, 1993), 104 cases were considered, with 29 cases settled, 49 cases terminated, and 26 cases still pending at the end of that period of time. Subsequent to June 30, 1993, 5 of the pending cases have settled, 6 pending cases have been terminated, leaving 15 cases still pending.

If you need any further information, please feel free to contact me at the telephone number shown above.

Sincerely,

Perry Walinski

Perry Walinski
Settlement Conference Clerk

/pw
cc: Honorable Arnold Shulman

JUDICIAL COUNCIL OF GEORGIA
Administrative Office of the Courts
SUITE 550
244 WASHINGTON STREET, S.W.
ATLANTA, GEORGIA 30334-5900
(404) 656-5171
FAX: (404) 651-6449

August 20, 1993

Judge Arnold Shulman
Settlement Conference Chief Judge
334 State Judicial Building
Atlanta, GA 30334

Dear Judge Schulman,

I am compiling information for the *Twentieth Annual Report on the Work of the Georgia Courts* and would appreciate your comments on the activities of the Appellate Settlement Conference for fiscal year 1993 (July 1, 1992 - June 30, 1993).

It would be helpful if you could provide essentially the same information as last year — total number of cases considered, settled, terminated, and pending. Please feel free to include any other information you think is noteworthy.

In order to produce the report on time, a submission deadline of September 10 has been set. Please let me know if that will be a problem. Thank you.

Sincerely,

Nancy Kahnt

Nancy Kahnt
Communications Specialist

APPELLATE SETTLEMENT
CONFERENCE COSTS

	Current	Projected FY95	
Perry H. Walinski			
Salary	38,570.00	40,498.50	
Fringes	13,927.63	14,624.01	
TOTAL	52,497.63	55,122.51	
			STARTUP COST FOR EXPANSION OF PROGRAM
Two staff members @ $21,000 maximum each per year		42,000.00	
fringes		15,166.20	
TOTAL			57,166.20
Furniture, Computers, etc.			6,750.00
Telecommunications			720.00
Office Space (@150 sq.ft x $11 each)			3,300.00
**Compensation and fees pd to Senior Judges (525 x $165)			86,625.00
Supplies & Materials			1,500.00
TOTAL			156,061.20
Estimated Assessment Collection (estimated at current avg. of $100/case)			52,500.00

**Estimate based upon average Court of Appeals caseload of 2500 cases per year. About 70% of those are civil. Approximately 30% (525) of the civil cases could be referred to the Settlement Conference