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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

ORTHOPAEDIC HOSPITAL,  
Plaintiff,  
v.  
DJO GLOBAL, INC. and DJO  
FINANCE, LLC,  
Defendants.

Case No.: 3:19-cv-00970-JLS-AHG

**ORDER MODIFYING  
MANDATORY SETTLEMENT  
CONFERENCE TO BE VIA VIDEO  
CONFERENCE AND ISSUING  
UPDATED PROCEDURES**

On May 8, 2020, upon the joint request of the parties, the Court reset the Mandatory Settlement Conference (“MSC”) in this matter to take place on September 15, 2020 at 2:00 p.m. before Magistrate Judge Allison H. Goddard. ECF No. 65. The Order incorporated by reference the Court’s requirement of personal attendance of all parties, party representatives, including claims adjusters for insured defendants, and the primary attorney(s) responsible for the litigation at the conference. *Id.*; AHG.MSC.R. ¶ 3. However, due to the current COVID-19 public emergency,<sup>1</sup> the Court hereby **MODIFIES** the MSC

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<sup>1</sup> On March 23, 2020, Chief Judge Larry A. Burns amended his original Order in response to the COVID-19 public emergency, which, among other things, excuses personal

1 to take place via **videoconference** for all attendees. To facilitate this modification, the  
2 Court hereby **ORDERS** as follows:

3 1. The Court will use its official Zoom video conferencing account to hold the  
4 Settlement Conference. **If you are unfamiliar with Zoom:** Zoom is available on  
5 computers through a download on the Zoom website (<https://zoom.us/meetings>) or on  
6 mobile devices through the installation of a free app. Joining a Zoom conference does not  
7 require creating a Zoom account, but it does require downloading the .exe file (if using a  
8 computer) or the app (if using a mobile device). Participants are encouraged to create an  
9 account, install Zoom and familiarize themselves with Zoom in advance of the Settlement  
10 Conference.<sup>2</sup> There is a cost-free option for creating a Zoom account.

11 2. Prior to the start of the Settlement Conference, the Court will email each  
12 participant an invitation to join a Zoom video conference. If possible, participants are  
13 encouraged to use laptops or desktop computers for the video conference, as mobile  
14 devices often offer inferior performance. Participants shall join the video conference by  
15 following the ZoomGov Meeting hyperlink in the invitation. **Participants who do not**  
16 **have Zoom already installed on their device when they click on the ZoomGov Meeting**  
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19 appearance of counsel and parties at civil court proceedings and notes that judges retain  
20 discretion to hold civil proceedings telephonically. *See* CJO #18-A at ¶ 4B. His original  
21 order, CJO #18, is available on the Court website at  
22 <https://www.casd.uscourts.gov/assets/pdf/rules/Order%20of%20the%20Chief%20Judge%202018.pdf>. His amended order, CJO #18-A, which amends paragraph four of CJO #18, is  
23 available on the Court website at  
24 <https://www.casd.uscourts.gov/assets/pdf/rules/Order%20of%20the%20Chief%20Judge%202018-a.pdf>. These orders were extended until mid-September by CJO #34, which is  
25 available on the Court website at  
26 <https://www.casd.uscourts.gov/assets/pdf/rules/Order%20of%20the%20Chief%20Judge%2034.pdf>.

27 <sup>2</sup> For help getting started with Zoom, visit: [https://support.zoom.us/hc/en-](https://support.zoom.us/hc/en-us/categories/200101697-Getting-Started)  
28 [us/categories/200101697-Getting-Started](https://support.zoom.us/hc/en-us/categories/200101697-Getting-Started)

1 **hyperlink will be prompted to download and install Zoom before proceeding.** Zoom  
2 may then prompt participants to enter the password included in the invitation.

3 3. Each participant should plan to join the Zoom video conference **at least five**  
4 **minutes before** the start of the MSC to ensure that it begins promptly at 2:00 p.m.

5 4. Zoom's functionalities will allow the Court to conduct the Settlement  
6 Conference as it ordinarily would conduct an in-person one. The Court will divide  
7 participants into separate, confidential sessions, which Zoom calls Breakout Rooms.<sup>3</sup> In a  
8 Breakout Room, the Court will be able to communicate with participants from a single  
9 party in confidence. Breakout Rooms will also allow parties and counsel to communicate  
10 confidentially without the Court.

11 5. No later than **September 8, 2020**, counsel for each party shall send an e-mail  
12 to the Court at [efile\\_goddard@casd.uscourts.gov](mailto:efile_goddard@casd.uscourts.gov) containing the following:

- 13 a. The **name and title of each participant**, including all parties and party  
14 representatives with full settlement authority, claims adjusters for  
15 insured defendants, and the primary attorney(s) responsible for the  
16 litigation;
- 17 b. An **e-mail address for each participant** to receive the Zoom video  
18 conference invitation; and
- 19 c. A **telephone number where each participant** may be reached so that  
20 if technical difficulties arise, the Court will be in a position to proceed  
21 telephonically instead of by video conference. (If counsel prefers to  
22 have all participants of their party on a single conference call, counsel  
23 may provide a conference number and appropriate call-in information,  
24 including an access code, where all counsel and parties or party

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28 <sup>3</sup> For more information on what to expect when participating in a Zoom Breakout  
Room, visit: <https://support.zoom.us/hc/en-us/articles/115005769646>

1 representatives for that side may be reached as an alternative to  
2 providing individual telephone numbers for each participant.)

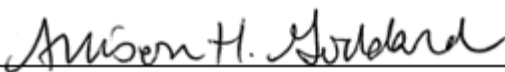
3 d. **A cell phone number for that party's preferred point of**  
4 **contact** (and the name of the individual whose cell phone it is) for the  
5 Court to use during the MSC to alert counsel via text message that the  
6 Court will soon return to that party's Breakout Room, to avoid any  
7 unexpected interruptions of confidential discussions.

8 6. All participants shall display the same level of professionalism during the  
9 Settlement Conference and be prepared to devote their full attention to the Settlement  
10 Conference as if they were attending in person, i.e., cannot be driving while speaking to  
11 the Court. Because Zoom may quickly deplete the battery of a participant's device, each  
12 participant should ensure that their device is plugged in or that a charging cable is readily  
13 available during the video conference.

14 7. All other deadlines and requirements set forth in the Court's previous Order  
15 resetting the MSC (ECF No. 65) remain in place, except as explicitly modified by this  
16 order.

17 **IT IS SO ORDERED.**

18 Dated: August 18, 2020

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21 Honorable Allison H. Goddard  
22 United States Magistrate Judge  
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