

## **Explanatory Comment**

The success, or the lack thereof, of settlement negotiations often hinges on the preparation of the parties for such negotiations. To facilitate the settlement of cases, Rule 212.3 governing pre-trial conferences has been amended to provide guidance to the parties when a court schedules a pre-trial conference for the purpose of settlement negotiations. New Rule 212.5 is intended to provide guidance to the parties for a conference scheduled specifically to settle litigation.

The proposed rule when published for comment required an insurance representative with “complete authority” to attend the pre-trial or settlement conference. Persons responding to the publication of the proposed rule pointed out that insurers have different claim resolution procedures. With most insurance companies, there is no one person who has complete authority to negotiate and settle a case, unless it is the president of the company or the vice president of claims. Every insurance representative has limits on his or her authority. In some companies, decisions are made by committees in large cases. The Committee removed the word “complete” so that the rule now requires “an insurance or similar representative who has authority to negotiate and settle the case” to attend the pre-trial or settlement conference.

By the Civil Procedural  
Rules Committee

Robert C. Daniels  
Chair