

1 Amendment failure-to-protect claim and the defense of qualified immunity.² (Doc. 78.) On
2 interlocutory appeal, the Ninth Circuit found that the district court failed to use the appropriate legal
3 standard to decide the qualified immunity issue and remanded the ruling for reconsideration. (Doc.
4 95 at 5 ¶1.) On April 26, 2007, Defendants filed a supplemental Motion for Summary Judgment,
5 addressing the remanded issue. (Doc. 99.) On March 6, 2008, the district court denied the
6 supplemental Motion for Summary Judgment. (Doc. 108.) On March 17, 2008, Defendants
7 appealed the district court's decision to the Ninth Circuit. (Doc. 109.) On June 28, 2010, the Ninth
8 Circuit issued an order affirming the district court's decision, and the mandate was entered on August
9 19, 2010. (Docs. 115, 118.) At this stage of the proceedings, the Court ordinarily proceeds to
10 schedule the case for trial.

11 **II. MOTION FOR SETTLEMENT**

12 On July 13, 2010, Plaintiff filed a Motion to participate in settlement proceedings via the
13 Court. (Doc. 116.) The Court is able to refer cases for mediation before a participating United
14 States Magistrate Judge. Settlement conferences are ordinarily held in person at the Court or at a
15 prison in the Eastern District of California. Plaintiff and Defendants shall notify the Court whether
16 they believe, in good faith, that settlement in this case is a possibility and whether they are interested
17 in having a settlement conference scheduled by the Court.³

18 Defendants' counsel shall notify the Court whether there are security concerns that would
19 prohibit scheduling a settlement conference. If security concerns exist, counsel shall notify the Court
20 whether those concerns can be adequately addressed if Plaintiff is transferred for settlement only and
21 then returned to prison for housing.

22 **III. CONCLUSION**

23 Based on the foregoing, IT IS HEREBY ORDERED that:

- 24 1. Plaintiff's Motion to participate in settlement proceedings is resolved by this order; and

26 ²By the court's order of August 23, 2004, defendant Lim was dismissed from the action, leaving only
27 defendants Carey, Drew, Schroeder, and Haws. (Doc. 78.)

28 ³ The parties may wish to discuss the issue by telephone in determining whether they believe settlement is
feasible.

