

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

DONALD R. LEACH,

Plaintiff,

vs.

TOM CAREY, T. DREW,
D. SCHROEDER, and HAWS,

Defendants.

CASE NO. 1:00-cv-06139-LJO-GSA PC

ORDER SETTING SETTLEMENT
CONFERENCE BEFORE THE
HONORABLE JENNIFER L. THURSTON

Date: December 17, 2010

Time: 9:30 a.m.

**Location: Kern Valley State Prison
Magistrate Judge Jennifer L. Thurston**

CONFIDENTIAL SETTLEMENT CONFERENCE
STATEMENTS DUE **December 3, 2010**

This is a civil rights action filed pursuant to 42 U.S.C. § 1983 by Plaintiff Donald R. Leach (“Plaintiff”), a state prisoner proceeding pro se. Plaintiff is presently incarcerated at the Kern Valley State Prison in Delano, California. Plaintiff filed the Complaint commencing this action on August 2, 2000. (Doc. 1.) The case now proceeds on Plaintiff’s Second Amended Complaint,¹ filed December 2, 2002, against defendants Tom Carey, T. Drew, D. Schroeder, and

¹The operative complaint is entitled “Third Amended Complaint;” however a review of the record shows it is actually Plaintiff’s Second Amended Complaint. The original Complaint was filed on August 2, 2000, and the First Amended Complaint was filed on March 12, 2001. (Docs. 1, 14.)

1 Haws (“Defendants”), for failure to protect Plaintiff in violation of the Eighth Amendment.²
2 (Doc. 46.)

3 The parties have notified the court that they believe a settlement conference would be
4 beneficial at this stage of the proceedings. (Docs. 120, 121.) Therefore, this case shall be
5 referred to United States Magistrate Judge Jennifer L. Thurston to conduct a settlement
6 conference.

7 In accordance with the above, IT IS HEREBY ORDERED that:

8 1. This case is set for a settlement conference before Magistrate Judge Jennifer L.
9 Thurston on **December 17, 2010, at 9:30 a.m.** at Kern Valley State Prison, 3000 West Cecil
10 Avenue, Delano, California 93216;

11 2. Parties shall appear at the settlement conference in person with full authority to
12 negotiate and settle the case on any terms. Government entities may appear through litigation
13 counsel only, but must have immediate access to the individual with settlement authority. The
14 failure of any counsel, party or authorized person subject to this order to appear in person may
15 result in the imposition of sanctions;

16 3. Each party shall provide a Confidential Settlement Conference Statement to:

17 Sujean Park, ADR Coordinator
18 501 I Street, Suite 4-200
19 Sacramento, California 95814

20 so they are received no later than **December 3, 2010**, and file a **Notice of Submission** of
21 the Confidential Settlement Conference Statement with the Clerk of the Court (See L.R.
22 270(d)). Settlement statements **should not be filed** with the Clerk of the Court nor
23 served on any other party. Settlement statements shall be clearly marked
24 “CONFIDENTIAL” with the date and time of the settlement conference indicated

25 ///

26 ²On August 23, 2004, the court dismissed defendant Lim from this action, leaving only defendants Carey, Drew, Schroeder, and Haws. (Doc. 78.)

1 prominently thereon. The confidential settlement statement shall be **no longer than five**
2 **pages** in length, typed or neatly printed, and include the following:

- 3 a. A brief statement of the facts of the case;
- 4 b. A brief statement of the claims and defenses, i.e., statutory or other
5 grounds upon which the claims are founded; a forthright evaluation of the
6 parties likelihood of prevailing on the claims and defenses; and a
7 description of the major issues in dispute;
- 8 c. A summary of the proceedings to date;
- 9 d. An estimate of the cost and time to be expended for further discovery,
10 pretrial, and trial;
- 11 e. The relief sought;
- 12 f. The party's position on settlement, including present demands and offers
13 and a history of past settlement discussions, offers, and demands; and
- 14 g. A brief statement of each party's expectations and goals for the settlement
15 conference;

16 4. The Clerk of the Court is directed to serve a copy of this order on:

- 17 (1) Magistrate Judge Jennifer L. Thurston, and
- 18 (2) The Litigation Office at Kern Valley State Prison via facsimile at (661)
19 720-4949.

20

21 IT IS SO ORDERED.

22 **Dated: November 1, 2010**

/s/ Gary S. Austin
23 UNITED STATES MAGISTRATE JUDGE