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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

CLARENCE HOWARD,  
Plaintiff,

CASE NO. 1:05-cv-00906-AWI-SAB (PC)

v.

GRADTILLO, et al.,  
Defendants.

ORDER OF REFERRAL FOR  
SETTLEMENT WEEK AND SETTING  
SETTLEMENT CONFERENCE

\_\_\_\_\_/

Plaintiff is a state prisoner proceeding pro se in a civil rights action pursuant to 42 U.S.C. § 1983. The Court has determined this case will benefit from a settlement conference; therefore, this case will be referred to Magistrate Judge Carolyn K. Delaney for the Court’s Settlement Week Program to conduct a settlement conference June 11, 2013 at 9:30 a.m. at the U. S. District Court, 501 I Street, Sacramento, California 95814 in Courtroom #24. A separate order and writ of habeas corpus ad testificandum will issue concurrently with this order.

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

1. This case is set for a settlement conference before Magistrate Judge Carolyn K. Delaney on June 11, 2013, at 9:30 a.m. at the U. S. District Court, 501 I Street, Sacramento, California 95814 in Courtroom #24.

1           2.       Defendants' lead counsel and a person with full and unlimited authority to  
2 negotiate and enter into a binding settlement on Defendants' behalf shall attend in person.<sup>1</sup>

3           3.       Those in attendance must be prepared to discuss the claims, defenses, and  
4 damages. The failure of any counsel, party, or authorized person subject to this order to appear  
5 in person may result in the imposition of sanctions. In addition, the conference will not proceed  
6 and will be reset to another date.

7           4.       Each party shall provide a confidential settlement conference statement to Sujean  
8 Park, 501 I Street, Suite 4-200, Sacramento, California 95814, or via e-mail at  
9 [spark@caed.uscourts.gov](mailto:spark@caed.uscourts.gov), so they arrive no later than June 3, 2013 and file a Notice of  
10 Submission of Confidential Settlement Conference Statement (See Local Rule 270(d)).

11           Settlement statements **should not be filed** with the Clerk of the court **nor served on any**  
12 **other party**. Settlement statements shall be clearly marked "confidential" with the date and time  
13 of the settlement conference indicated prominently thereon.

14           The confidential settlement statement shall be **no longer than five pages** in length, typed  
15 or neatly printed, and include the following:

- 16           a.       A brief statement of the facts of the case.
- 17           b.       A brief statement of the claims and defenses, i.e., statutory or other  
18                grounds upon which the claims are founded; a forthright evaluation of the  
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20           <sup>1</sup>The term "full authority to settle" means that the individuals attending the mediation  
21 conference must be authorized to fully explore settlement options and to agree at that time to any  
22 settlement terms acceptable to the parties. G. Heileman Brewing Co., Inc. v. Joseph Oat Corp.,  
23 871 F.2d 648, 653 (7th Cir. 1989), cited with approval in Official Airline Guides, Inc. v. Goss, 6  
24 F. 3d 1385, 1396 (9th Cir. 1993). The individual with full authority to settle must also have  
25 "unfettered discretion and authority" to change the settlement position of the party, if appropriate.  
26 Pittman v. Brinker Int'l, Inc., 216 F.R.D. 481, 485-86 (D. Ariz. 2003), amended on recon. in  
part, Pittman v. Brinker Int'l, Inc., 2003 WL 23353478 (D. Ariz. 2003). The purpose behind  
requiring the attendance of a person with full settlement authority is that the parties' view of the  
case may be altered during the face to face conference. Pitman, 216 F.R.D. at 486. An  
authorization to settle for a limited dollar amount or sum certain can be found not to comply with  
the requirement of full authority to settle. Nick v. Morgan's Foods, Inc., 270 F. 3d 590, 596-97  
(8th Cir. 2001).

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parties' likelihood of prevailing on the claims and defenses; and a description of the major issues in dispute.

- c. A summary of the proceedings to date.
- d. An estimate of the cost and time to be expended for further discovery, pretrial, and trial.
- e. The relief sought.
- f. The party's position on settlement, including present demands and offers, and a history of past settlement discussions, offers, and demands.
- g. A brief statement of each party's expectations and goals for the settlement conference.

IT IS SO ORDERED.

**Dated: April 8, 2013**

  
UNITED STATES MAGISTRATE JUDGE