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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

DONALD J. ACKLEY,

Plaintiff,

v.

D. CARROLL, et al.,

Defendants.

CASE NO. 1:06-cv-00771-AWI-BAM PC

ORDER VACATING JURY TRIAL, SETTING SETTLEMENT CONFERENCE AND TELEPHONIC STATUS CONFERENCE

ORDER DENYING PLAINTIFF’S MOTION TO CONTINUE TRIAL AND MOTION FOR DISCOVERY (ECF Nos. 92, 93)

Settlement Conference: August 8, 2012 at 9:30 a.m. in Courtroom 8 (BAM)

Telephonic Status Conference: August 27, 2012 at 3:00 p.m in Courtroom 2 (AWI)

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Plaintiff Donald J. Ackley (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This action is proceeding on the complaint, filed June 19, 2006, against Defendant Wright for excessive force in violation of the Eighth Amendment, and Defendant Carroll for retaliation in violation of the First Amendment. On May 29, 2012, at 3:00 p.m. a telephonic trial confirmation hearing was held before the Honorable Anthony W. Ishii. During the hearing, Plaintiff’s motion for discovery was denied.

The parties have indicated that this action may be amenable to settlement. A settlement conference shall be scheduled for **August 8, 2012, at 9:30 a.m.** before the undersigned. Unless otherwise permitted in advance by the Court, the attorney(s) who will try the case shall appear at the mandatory settlement conference with the person or persons having full authority to negotiate and settle the case, on any terms, at the conference.

1 On or before **July 23, 2012**, the parties shall submit directly to the settlement conference
2 judge's chambers a confidential settlement conference statement. This statement should not be filed
3 with the Clerk's Office and should not be served on the other party. It should be mailed directly to
4 chambers at the following address: **Chambers of Magistrate Judge Barbara A. McAuliffe, 2500**
5 **Tulare Street, Suite 1501, Fresno, California, 93721**. Each statement shall be clearly marked
6 "CONFIDENTIAL" with the date and time of the mandatory settlement conference indicated
7 prominently. The parties are urged to request the return of their statements. If such request is not
8 made, the Court will dispose of the statements.

9 The Confidential Settlement Conference Statement shall include the following:

- 10 A. A brief statement of the facts of the case;
- 11 B. The relief sought; and
- 12 C. The party's position on settlement, including realistic settlement expectations,
13 present demands and offers, and a history of past settlement discussions, offers, and demands.

14 Defendants shall include an estimate of the cost and time to be expended for further pretrial
15 and trial matters.

16 Based upon the discussion at the hearing, IT IS HEREBY ORDERED that:

- 17 1. The jury trial set for June 26, 2012, at 8:30 a.m. before the Honorable Anthony W.
18 Ishii is VACATED;
- 19 2. Plaintiff's motion for discovery, filed May 8, 2012, is DENIED;
- 20 3. Plaintiff's motion to continue trial, filed May 8, 2012, is DENIED as moot;
- 21 4. A settlement conference is set for **August 8, 2012 at 9:30 a.m.** before the
22 undersigned;
- 23 5. The parties shall submit confidential settlement statements as described in this order
24 on or before **July 23, 2012**;
- 25 6. A telephonic status conference is set for **August 27, 2012, at 3:00 p.m.** before the
26 Honorable Anthony W. Ishii, and

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