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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

Davon E. McCoy,

Plaintiff,

No. CV-07-198-SMM

vs.

R. Spidle, et al.,

Defendants.

**ORDER SETTING
SETTLEMENT CONFERENCE**

_____/

Plaintiff is a state prisoner proceeding with counsel with an action under 42 U.S.C. §1983. This case will be referred to Magistrate Judge Michael J. Seng to conduct a settlement conference at Salinas Valley State Prison, 31625 Highway 101, Soledad, California 93960 on May 18, 2012 at 1:00 p.m.

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

1. This case is set for a settlement conference before Magistrate Judge Michael J. Seng on May 18, 2012, at 1:00 p.m. at Salinas Valley State Prison, 31625 Highway 101, Soledad, California 93960.

2. Defendants' lead counsel and a person with full and unlimited authority to

1 negotiate and enter into a binding settlement on defendants' behalf shall attend in person.¹

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

6 4. Each party shall provide a confidential settlement conference statement to
7 Sujean Park, 501 I Street, Suite 4-200, Sacramento, California 95814, or via e-mail at
8 spark@caed.uscourts.gov, so they arrive no later than May 11, 2012 and file a Notice of
9 Submission of Confidential Settlement Conference Statement (See Local Rule 270(d)).

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

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

- 15 a. A brief statement of the facts of the case.
- 16 b. A brief statement of the claims and defenses, i.e., statutory or other
17 grounds upon which the claims are founded; a forthright evaluation of the parties' likelihood of
18 prevailing on the claims and defenses; and a description of the major issues in dispute.

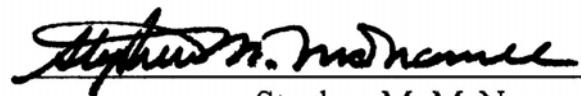
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20 ¹The term "full authority to settle" means that the individuals attending the mediation
21 conference must be authorized to fully explore settlement options and to agree at that time to any
22 settlement terms acceptable to the parties. G. Heileman 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
26 appropriate. Pittman v. Brinker Int'l, Inc., 216 F.R.D. 481, 485-86 (D. Ariz. 2003), amended on
recon. in part, Pitman 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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- 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.

5. The Clerk of the Court is directed to serve a copy of this order on the Litigation Office at Salinas Valley State Prison via facsimile at (831) 678-5544.

DATED this 12th day of April, 2012.



Stephen M. McNamee
Senior United States District Judge