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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

ROBERT GARCIA,

Plaintiff,

CASE NO. 1:07-cv-01750-AWI-SMS PC

v.

ORDER REFERRING CASE TO THE PRISONER ADR PROGRAM FOR A SETTLEMENT CONFERENCE ON OCTOBER 27, 2011 (ECF No. 96, 98)

A. MASIEL, et al.,

Defendants.

ORDER GRANTING MODIFICATION OF SCHEDULING ORDER

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Plaintiff Robert Garcia (“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 case has been selected for the court’s Prisoner ADR Program and will be referred to Magistrate Judge Craig M. Kellison to conduct a settlement conference at the U. S. District Court, 501 I Street, Sacramento, California 95814 in Courtroom #2 on October 27, 2011 at 1:00 p.m.

Defendants’ motion to modify the scheduling order shall be partially granted and the date for Defendants to file their pretrial statement shall be December 1, 2011.

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 1. This case is set for a settlement conference before Magistrate Judge Craig M.  
2 Kellison on October 27, 2011, at 1:00 p.m. at the U. S. District Court, 501 I Street, Sacramento,  
3 California 95814 in Courtroom #2.

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

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

10 4. Defendant shall serve and file a pretrial statement on or before December 1,  
11 2011.

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14 IT IS SO ORDERED.

15 **Dated:** September 27, 2011

/s/ Sandra M. Snyder  
UNITED STATES MAGISTRATE JUDGE

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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 (7<sup>th</sup> Cir. 1989), cited with approval in Official Airline Guides, Inc. v. Goss, 6  
24 F. 3d 1385, 1396 (9<sup>th</sup> 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  
(8<sup>th</sup> Cir. 2001).