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6 **UNITED STATES DISTRICT COURT**

7 EASTERN DISTRICT OF CALIFORNIA

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9 MAXIMILIAN MONCLOVA-CHAVEZ, CASE NO. 1:08-cv-00076-AWI-BAM  
10 Plaintiff, ORDER DENYING PLAINTIFF'S MOTION  
11 v. FOR SCHEDULING A SETTLEMENT  
12 ERIC McEACHERN, et al., (ECF No. 116)  
13 Defendants.  
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15 Plaintiff Maximilian Monclova-Chavez ("Plaintiff") is a federal prisoner proceeding in this  
16 civil action pursuant to Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403  
17 U.S. 388, 91 S.Ct. 1999 (1971), which provides a remedy for violation of civil rights by federal  
18 actors. This action is proceeding on the complaint, filed January 15, 2008, against Defendants  
19 Miller, White, and Tincher for violations of the Eighth Amendment.<sup>1</sup> (ECF No. 1.) On May 30,  
20 2012, a telephonic hearing was held to determine if the parties to this action are amenable to  
21 settlement and whether a settlement conference should be scheduled.

22 During the hearing, Defendants White and Miller indicated that they are not interested in  
23 pursuing settlement of this action and wish to proceed to trial.<sup>2</sup> Accordingly, Plaintiff's motion to  
24 schedule a settlement conference shall be denied. The parties are encouraged to engage in settlement  
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<sup>1</sup>On December 8, 2010, default was entered against Defendant McEachern. (ECF Nos. 71, 72.)

27 <sup>2</sup>On April 3, 2012, all parties indicated that they were not interested in settlement. Counsel for Defendant  
28 Tincher did not appear at the hearing on May 30, 2012, so the Court has no information that Defendant Tincher is amenable to settlement at this time.

1 discussions, and if the parties are agreeable to participating in a settlement conference, they shall so  
2 notify the Court. If the Court receives a stipulation that the parties are agreeable to settlement, a  
3 settlement conference will be scheduled.

4 Based on the foregoing, IT IS HEREBY ORDERED that Plaintiff's motion for a settlement  
5 conference is DENIED, without prejudice, and the telephonic hearing set for June 18, 2012, at 1:30  
6 p.m. before the Honorable Anthony W. Ishii shall remain on calendar for the motion to bifurcate  
7 hearing.

8 IT IS SO ORDERED.

9 Dated: May 30, 2012

/s/ Barbara A. McAuliffe  
UNITED STATES MAGISTRATE JUDGE