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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

TEAM ENTERPRISES, LLC,

1:08-cv-00872-LJO-SMS

Plaintiff,

**ORDER REQUIRING PLAINTIFF
AND PLAINTIFF'S PRIMARY
INSURER TO PARTICIPATE IN
FURTHER MEDIATION SESSION**
(Doc. 363)

vs.

WESTERN INVESTMENT REAL
ESTATE TRUST, et al.,

Defendants.

This matter came on regularly for a telephonic status conference on July 26, 2011 at 11:00 a.m. before the Honorable Sandra M. Snyder, United States Magistrate Judge. Jan A. Greben, Esq., of Greben & Associates appeared telephonically on behalf of Plaintiff, Team Enterprises. Rita M. Alliss Powers, Esq., of Greenberg Traurig, LLP, appeared telephonically on behalf of Defendants, PK II Century Center, LP, Pan Pacific Retail Properties, Inc., Kimco Realty Corporation, and Prudential Real Estate Investors. Robert C. Goodman, Esq., of Rogers Joseph O'Donnell appeared telephonically on behalf of Defendants, John A. Branagh, Lynette F. Branagh, Gaylon C. Patterson, Marla J. Patterson, Modesto Center Investors, LP, and MC II, LP.

1 Frustration in abundance, all counsel related that the
2 parties have reached a global accord in sessions with Mediator
3 Randall Wulff save and except with regard to "an issue" relating
4 to and/or impacting Team Enterprise's primary insurer. Defense
5 counsel informed this Court that, absent Team's primary insurer
6 being willing to participate in follow-up mediation with Mr.
7 Wulff, they will be forced to file motions to enforce the
8 settlement.

9 The United States District Court for the Eastern District of
10 California sports the largest weighted caseload per judge in the
11 entire United States. Hence, it goes without saying, some cases
12 need to resolve short of trial. This particular action is an old
13 case by federal standards, and the undersigned has spent
14 countless hours with all counsel resolving discovery disputes and
15 focusing various arguments and positions with an eye on
16 successful mediation. That, of course, is in the best interest
17 of all parties as well as the court.

18 Believing that all counsel, parties, and most carriers came
19 to the mediation table in a cooperative mode and mood to resolve
20 what surely has turned into massively expensive litigation for
21 all concerned, to hear that one insurer "...refuses to
22 participate in the settlement due to [an] issue..." with
23 indications that further mediation will not help resolve the one
24 remaining "issue" is nothing short of contemptuous if, indeed,
25 that is true.

26 Therefore, Team Enterprises, LLC, and its primary insurer
27 are HEREBY ORDERED to IMMEDIATELY schedule further mediation with
28 Randall Wulff, and to engage in open, cooperative, and especially

1 conciliatory negotiations to attempt to reach a firm and final
2 settlement in this case. Counsel for Defendants shall appear at
3 the further mediation, but the parties themselves and the
4 carriers for Defendants are not required to appear.

5 Should this Court learn from any source, including but not
6 limited to defense counsel and/or Mediator Wulff, that the
7 further mediation was not fruitful due to the recalcitrance of
8 Team Enterprise's "primary carrier," contempt proceedings may
9 well be scheduled by this Court.

10
11
12 IT IS SO ORDERED.

13 **Dated: July 29, 2011**

/s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE