

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

Oba Lee Frelimo,
Plaintiff,

vs.

J. Garcia, et al.,
Defendants.

No. 1:08-CV-01040-SMM

**ORDER SETTING RULE 16
SCHEDULING CONFERENCE**

Although this action is excepted from the mandatory scheduling order requirement pursuant to Federal Rule of Civil Procedure 16(b) and L.R. 16-240(c)(8),¹ the Court previously found that a status conference would be helpful for the purpose of entering a scheduling order. On October 29, 2009, the Court issued an order setting a telephonic Scheduling Conference for Monday, December 7, 2009 at 3:00 p.m. (Doc. 22). The Court instructed defense counsel to initiate a conference call and secure Plaintiff on the line before telephoning Judge McNamee’s chambers on December 7, 2009.

On December 6, 2009, defense counsel filed a Request for Continuance of Status Conference (Doc. 24). In this Request, defense counsel states that he was notified on Friday, December 4, 2009 by CSP-Corcoran that Plaintiff would not be available for the conference call on December 7. Defense counsel requests that the date of the conference be moved so that Plaintiff may participate. The Court will grant one continuance to accommodate the

¹ L.R. refers to the Local Rules of Practice for the United States District Court, Eastern District of California.

1 needs of the prison, however, absent good cause, the conference will not be rescheduled
2 again.

3 Accordingly,

4 **IT IS HEREBY ORDERED** that a telephonic Scheduling Conference is set for
5 **Tuesday, December 15, 2009 at 3:00 p.m, Arizona time.** Defense counsel shall initiate a
6 conference call and secure Plaintiff on the line before telephoning Judge McNamee's
7 chambers at (602) 322-7555, no later than 2:55 p.m., on December 15, 2009.

8
9 *** * * N O T I C E * * ***

10
11 **IT IS FURTHER ORDERED:**

- 12 1. **DEFENSE COUNSEL WHO WILL BE RESPONSIBLE FOR TRIAL OF**
13 **THE LAWSUIT FOR EACH PARTY SHALL APPEAR AND**
14 **PARTICIPATE IN THE SCHEDULING CONFERENCE.** Defense
15 counsel is directed to Rule 16 of the Federal Rules of Civil Procedure for the
16 objectives of the conference. At least one of the attorneys for each party
17 attending the conference shall have authority to enter into stipulations and
18 make admissions regarding all matters which may be discussed.
- 19 2. The parties must be prepared to discuss: (1) the nature and bases of their
20 claims and defenses and (2) the possibilities for a prompt settlement or
21 resolution of the case.

22 **IT IS FURTHER ORDERED** that in accordance with Federal Rules of Civil
23 Procedure 16(b), 26(a)(1)(B), 26(f), and L.R. 16-240(c)(8), the parties are exempted from
24 providing initial disclosures, conferring before the scheduling conference, and developing
25 a discovery plan.

26 **IT IS FURTHER ORDERED** that counsel for all parties are expected to comply
27 with Rule 26 of the Federal Rules of Civil Procedure and to minimize the expense of
28 discovery.

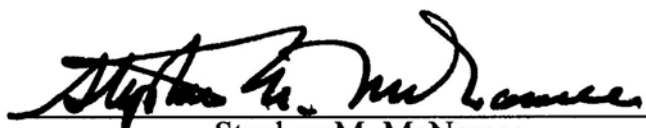
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IT IS FURTHER ORDERED that the Court, after consultation with counsel and the parties, will enter a Rule 16(b) Scheduling Order concerning, inter alia, discovery and dispositive motions. The parties and their counsel are all cautioned that the deadlines set in the Rule 16 Scheduling Order shall be strictly enforced.

IT IS FURTHER ORDERED that this Court views the Scheduling Conference as critical to its case management responsibilities and the responsibilities of the parties under Rule 16 of the Federal Rules of Civil Procedure. **FAILURE TO COMPLY WITH EVERY PROVISION OF THIS ORDER MAY LEAD TO SANCTIONS PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 16(f).**

IT IS FURTHER ORDERED that the Clerk of the Court send copies of this Order to all counsel of record and to all parties appearing in propria persona.

DATED this 7th day of December, 2009.



Stephen M. McNamee
United States District Judge