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

WHITTIER BUCHANAN,

Plaintiff,

vs.

A. SANTOS, et al.,

Defendants.

1:08-cv-01174-AWI-GSA-PC

ORDER SETTING TELEPHONIC
SETTLEMENT CONFERENCE
BEFORE MAGISTRATE JUDGE
GARY S. AUSTIN

Date: July 12, 2012
Time: 10:30 a.m.

CONFIDENTIAL SETTLEMENT CONFERENCE
STATEMENTS DUE June 28, 2012

_____ /

Whittier Buchanan (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis with this civil rights action pursuant to 42 U.S.C. § 1983. The Court has determined that this case would benefit from inclusion in the Court’s prisoner case settlement program. A telephonic settlement conference will be conducted at the United States District Court, 2500 Tulare Street, Fresno, California, on July 12, 2012 at 10:30 a.m. before the undersigned. Counsel for Defendants are required to arrange for the participation of Plaintiff in the telephonic settlement conference and to initiate the conference by first connecting Plaintiff to a conference call, then calling the Court with all parties on one line at (559) 499-5960. If defense counsel has questions concerning the logistics of the call, they are to contact the Courtroom Deputy at (559) 499-5962.

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

2 1. This case is set for a telephonic settlement conference before the undersigned on July
3 12, 2012 at 10:30 a.m. at the United States District Court, 2500 Tulare Street, Fresno, California
4 93721. Counsel for defendants are ordered to arrange for the participation of Plaintiff in the
5 telephonic settlement conference and to initiate the conference by first connecting Plaintiff to a
6 conference call, then calling the Court with all parties on one line at (559) 499-5960.

7 2. Defendants' lead counsel and a person with full and unlimited authority to negotiate
8 and enter into a binding settlement on Defendants' behalf shall actively participate in and be on
9 the call for the telephonic settlement conference.¹

10 3. Those participating in the telephonic settlement conference must be prepared to
11 discuss the claims, defenses and damages. The failure of any counsel, party or authorized person
12 subject to this order to participate in the telephonic settlement conference may result in the
13 imposition of sanctions. In addition, the conference will not proceed and will be reset to another
14 date.

15 4. Each party shall provide a Confidential Settlement Conference Statement to Sujean
16 Park, 501 I Street, Suite 4-200, Sacramento, California 95814, or via e-mail at
17 spark@caed.uscourts.gov, to arrive no later than June 28, 2012, and file a Notice of Submission
18 of Confidential Settlement Conference Statement (See Local Rule 270(d)).

19
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 appropriate.
26 Pitman 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).

1 Settlement Conference Statements **should not be filed** with the Clerk of the Court **nor**
2 **served on any other party**. Settlement Conference Statements shall be clearly marked
3 “confidential” with the date and time of the settlement conference indicated prominently thereon.
4 The Confidential Settlement Conference Statement shall be **no longer than five pages** in length,
5 typed or neatly printed, and include the following:

- 6 a. A brief statement of the facts of the case.
- 7 b. A brief statement of the claims and defenses, i.e., statutory or other
8 grounds upon which the claims are founded; a forthright evaluation of the
9 parties’ likelihood of prevailing on the claims and defenses; and a
10 description of the major issues in dispute.
- 11 c. A summary of the proceedings to date.
- 12 d. An estimate of the cost and time to be expended for further discovery,
13 pretrial, and trial.
- 14 e. The relief sought.
- 15 f. The party’s position on settlement, including present demands and offers
16 and a history of past settlement discussions, offers, and demands.
- 17 g. A brief statement of each party’s expectations and goals for the settlement
18 conference.

19 5. The Clerk of the Court is directed to serve a copy of this order on the Litigation Office
20 at Kern Valley State Prison via facsimile at (661) 720-4949.

21
22 IT IS SO ORDERED.

23 **Dated: June 11, 2012**

/s/ Gary S. Austin
24 UNITED STATES MAGISTRATE JUDGE