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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

KELVIN ALLEN,

Plaintiff,

v.

MEYER, et al.;

Defendants.

Case No. 1:09-cv-00729-LJO-SKO

**STIPULATION AND ORDER
REFERRING MATTER TO A
SETTLEMENT CONFERENCE AND
VACATING DISCOVERY AND
DISPOSITIVE MOTION DEADLINES**

1 **INTRODUCTION**

2 Plaintiff Kelvin Allen (“Plaintiff”) and defendants Meyer-Zlokovich, Botello, Zamora,
3 and Zuniga (“Defendants”), by and through their undersigned counsel, request that the Court refer
4 this matter to a settlement conference before United States Magistrate Judge Nandor J. Vadas in
5 San Francisco, California, and vacate the current discovery and dispositive motion deadlines
6 while the parties pursue settlement discussions. Pursuant to Civil Local Rule 143, a stipulation
7 and proposed order reflecting these requests is included below.

8 **RELEVANT BACKGROUND INFORMATION**

9 This Court’s June 1, 2015 Amended Discovery and Scheduling Order set a discovery
10 schedule closing on September 1, 2015, and a dispositive motion deadline on November 2, 2015.
11 (Dkt. 83.) That Order also sought clarification from counsel for Mr. Allen as to whether their
12 (pro bono) representation would continue beyond the limited issue of exhaustion of
13 administrative remedies. (*Id.*)

14 On July 1, 2015, counsel for Mr. Allen clarified that their representation of Mr. Allen will
15 continue through trial. (Dkt. 85.) Counsel also alerted the Court that they would request an
16 extension of the current discovery and dispositive motion deadlines, due to competing obligations
17 and a demanding case schedule through September 1, 2015, and would work with Defendants’
18 counsel to stipulate to a revised schedule agreeable to all parties.

19 In the course of discussing the extension, the parties have agreed to discuss the possibility
20 of settlement. To assist the parties with these discussions, the parties respectfully request,
21 pursuant to Civil Local Rule 270, that the Court refer the case for a settlement conference before
22 Magistrate Judge Vadas, to take place in the United States District Court for the Northern District
23 of California in San Francisco, California. The parties have been informed that Magistrate Judge
24 Vadas may be available to hold a settlement conference on either October 29, 2015 or October
25 30, 2015 in San Francisco. The parties respectfully request a referral to Magistrate Judge Vadas
26 for a settlement conference on either date, or such other date that is convenient for Magistrate
27 Judge Vadas and his staff. Mr. Allen may also request to be permitted to appear by telephone
28

1 from his institution at the settlement conference, rather than in person, if Magistrate Judge Vadas
2 is amenable to such an appearance.

3 In the event the October 2015 dates are unavailable, Mr. Allen respectfully requests that
4 the settlement conference take place no earlier than September 1, 2015 and Defendants' counsel
5 does not oppose this request.¹ In addition to scheduling conflicts in July and August, counsel for
6 Mr. Allen will need time to meet with Mr. Allen in person to discuss settlement, a process that
7 requires advance notice and approval from Mr. Allen's institution for each visit. Scheduling the
8 settlement conference after September 1, 2015 will ensure adequate time to prepare.

9 In addition, to permit the parties adequate time to focus on settlement, the parties also
10 request that the Court vacate the current discovery and dispositive motion deadlines set forth in
11 the Amended Scheduling Order and reset them, if necessary, after mediation. The parties will
12 promptly alert the Court if the case does not settle and, at that time, will propose new discovery
13 and dispositive motion deadlines for the Court's consideration.

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27 ¹ Defendants' counsel is unavailable on December 8, and is in trial and unavailable during
28 the week of December 14, 2015.

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STIPULATION

THEREFORE, the Parties STIPULATE and AGREE TO the following:

- a) This case will be referred to Magistrate Judge Nandor J. Vadas for a Settlement Conference to take place in San Francisco, California after September 1, 2015; and
- b) The current case deadlines set forth in the Amended Discovery and Scheduling Order are vacated.

Dated: July 24, 2015

KELVIN ALLEN,

By: /s/ Caitlin Sinclair Blythe
CAITLIN SINCLAIRE BLYTHE

GEORGE C. HARRIS
CAITLIN SINCLAIRE BLYTHE
JULIE A. NICHOLSON
MORRISON & FOERSTER LLP

Attorneys for Plaintiff
KELVIN ALLEN

Dated: July 24, 2015

MEYER-ZLOKOVICH, BOTELLO, ZAMORA, & ZUNIGA,

By: /s/ Jaime M. Ganson (as authorized on 7/24/2015)
JAIME M. GANSON

KAMALA D. HARRIS
Attorney General of California
THOMAS S. PATTERSON
Supervising Deputy Attorney General
JAIME M. GANSON
Deputy Attorney General

Attorneys for Defendants
MEYER-ZLOKOVICH, BOTELLO, ZAMORA, & ZUNIGA

1 **ORDER**

2 Pursuant to the parties' stipulation, IT IS HEREBY ORDERED that:

- 3 1. This case is referred to Magistrate Judge Nandor J. Vadas for a Settlement Conference to
4 take place in San Francisco, California, on or before October 30, 2015;
- 5 2. A representative with full and unlimited authority to negotiate and enter into a binding
6 settlement on the defendants' behalf shall attend in person;
- 7 3. Those in attendance must be prepared to discuss the claims, defenses and damages. The
8 failure of any counsel, party or authorized person subject to this order to appear in person
9 may result in the imposition of sanctions. The parties are ordered to contact the chambers
10 of Magistrate Judge Nandor J. Vadas to confirm whether Plaintiff's appearance in person
11 is required or appearance by telephone will be permitted;
- 12 4. The parties are directed to provide confidential settlement conference statements to the
13 Honorable Nandor J. Vadas, U.S. District Court-Northern District of California, 3140
14 Boeing Avenue, McKinleyville, CA 95519 or via email at NJVpo@cand.uscourts.gov, so
15 that they arrive no later than ten calendar days prior to the settlement conference;
- 16 5. The current case deadlines set forth in the Amended Discovery and Scheduling Order are
17 vacated; and
- 18 6. Within ten days of the settlement conference, if the case does not settle, the parties shall
19 file a joint proposal to reset the remainder of the case deadlines.

20
21 IT IS SO ORDERED.

22 Dated: July 30, 2015

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE