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3 UNITED STATES DISTRICT COURT
4 EASTERN DISTRICT OF CALIFORNIA
5

6 WILLIAM SUTHERLAND,

7 Plaintiff,

8 vs.

9 JAMES A. YATES, et al.,

10 Defendants.

1:09-cv-02152-LJO-GSA-PC

ORDER REQUIRING PARTIES TO
NOTIFY COURT WHETHER A
SETTLEMENT CONFERENCE WOULD
BE BENEFICIAL

THIRTY-DAY DEADLINE

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12 **I. BACKGROUND**

13 William Sutherland ("Plaintiff") is a state prisoner proceeding pro se and in forma
14 pauperis with this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint
15 commencing this action on December 11, 2009. (Doc. 1.) This action now proceeds on the
16 First Amended Complaint filed by Plaintiff on December 6, 2010, against defendants
17 Correctional Officers (C/O) A. Fernando and M. Jericoff for use of excessive force in violation
18 of the Eighth Amendment, and related state claims.¹ (Doc. 15.)

19 On September 8, 2011, the Court issued a Discovery/Scheduling Order in this action,
20 establishing a deadline May 8, 2012 for the parties to conduct discovery, and a deadline of July
21 17, 2012 for the filing of pretrial dispositive motions.² (Doc. 27.) The pretrial deadlines have
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23 ¹ On June 16, 2011, the Court dismissed defendant Lieutenant R. Lantz from this action based on
24 Plaintiff's failure to state a claim against him under § 1983. (Doc. 20.) Plaintiff's claims for conspiracy, due
25 process violations, and violations of the Penal Code were also dismissed from this action based on Plaintiff's
26 failure to state a claim upon which relief may be granted under § 1983. (*Id.*) On February 20, 2014, the Court
issued an order granting in part Defendants' motion for summary judgment of August 17, 2012, granting summary
judgment in favor of Defendant Yates. (Doc. 94.) The Court declined to exercise supplemental jurisdiction over
Plaintiff's state law claim of negligent hiring. (*Id.* at 2 ¶4.)

27 ² On September 18, 2012, the Court granted Defendants an extension of time nunc pro tunc until August
28 17, 2012, to file a motion for summary judgment. (Doc. 54.)

1 now expired. On February 20, 2014, the Court denied in part Defendants' motion for summary
2 judgment. (Doc. 94.) At this stage of the proceedings, the Court ordinarily proceeds to
3 schedule the case for trial.

4 **II. SETTLEMENT PROCEEDINGS**

5 The Court is able to refer cases for mediation before a participating United States
6 Magistrate Judge. Settlement conferences are ordinarily held in person at the Court or at a
7 prison in the Eastern District of California. Plaintiff and Defendants shall notify the Court
8 whether they believe, in good faith, that settlement in this case is a possibility and whether they
9 are interested in having a settlement conference scheduled by the Court.³

10 Defendants' counsel shall notify the Court whether there are security concerns that
11 would prohibit scheduling a settlement conference. If security concerns exist, counsel shall
12 notify the Court whether those concerns can be adequately addressed if Plaintiff is transferred
13 for settlement only and then returned to prison for housing.

14 **III. CONCLUSION**

15 Based on the foregoing, IT IS HEREBY ORDERED that within **thirty (30) days** from
16 the date of service of this order, Plaintiff and Defendants shall file a written response to this
17 order.⁴

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21 IT IS SO ORDERED.

22 Dated: February 21, 2014

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

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25
26 ³ The parties may wish to discuss the issue by telephone in determining whether they believe settlement
is feasible.

27 ⁴ The issuance of this order does not guarantee referral for settlement, but the Court will make every
28 reasonable attempt to secure the referral should both parties desire a settlement conference.