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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

TONY HERNANDEZ,
Plaintiff,
v.
JAMES YATES, et al.,
Defendants.

Case No. 1:10-cv-01064 SAB
ORDER re SETTLEMENT CONFERENCE

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This case is set for a Settlement Conference before Magistrate Judge Sheila K. Oberto on September 22, 2016, at 10:00 a.m. at the U. S. District Court, 2500 Tulare Street, Fresno, California, 93721.

Consideration of settlement is a serious matter that requires thorough preparation prior to the settlement conference. Accordingly, IT IS HEREBY ORDERED that:

1. Pre-settlement Conference Exchange of Demand and Offer

A settlement conference is more likely to be productive if, before the conference, the parties exchange written settlement proposals. By no later than September 7, 2016, Plaintiff shall submit a written itemization of damages and settlement demand to defense counsel with a brief summary of the legal and factual basis supporting the demand. By no later than September 14, 2016, defense counsel shall submit a written offer to plaintiff with a brief summary of the legal and factual basis supporting the offer.

1 **2. Submission and Content of Confidential Settlement Conference Statements**

2 Plaintiff shall mail his Confidential Settlement Conference (Settlement Statement) to U.S.
3 District Court, Attn: Chambers of Judge Oberto, 2500 Tulare Street, Room 1501, Fresno, CA
4 93721. Defense counsel shall e-mail their Confidential Settlement Conference Statement
5 (Settlement Statement) to the following email address: SKOorders@caed.uscourts.gov. All
6 Settlement Statements are to be received by the Court by no later than September 15, 2016.
7 Counsel shall file a Notice of Submission of Confidential Settlement Conference Statement (See
8 L.R. 270 (d)).

9 If the Settlement Conference is continued for any reason, each party must submit a new
10 Settlement Statement that is complete in itself, without reference to any prior Settlement
11 Statements.

12 Settlement Statements must be typed and double spaced. Each Settlement Statement *shall*
13 *include the following:*

- 14 a. A brief summary of the core facts, allegations, and defenses.
- 15 b. A summary of the proceedings to date.
- 16 c. An estimate of the cost and time to be expended for further discovery,
17 pretrial, and trial.
- 18 d. The nature of the relief sought.
- 19 e. An outline of past settlement efforts including information regarding the
20 "Pre-settlement Conference Exchange of Demand and Offer" required
21 above (including the itemization of damages), and a history of past
22 settlement discussions, offers, and demands.
- 23 f. A statement of each party's expectations and goals for the Settlement
24 Conference.

1 **3. Attendance of Trial Counsel and Parties Required**

2 *The attorneys who will try the case and parties with full and complete settlement authority*
3 *are required to personally attend the conference.* It is difficult for a party who is not present to
4 appreciate the process and the reasons that may justify a change in one’s perspective toward
5 settlement. Accordingly, having a client with authority available by telephone is *not* an acceptable
6 alternative, except under the most extenuating circumstances.²

7 The Court expects the parties and the party representatives to be fully prepared to
8 participate. The Court encourages all parties to keep an open mind in order to reassess their
9 previous positions and to discover creative means for resolving the dispute.

10 **4. Issues to Be Discussed**

11 The parties *shall* be prepared to discuss the following at the settlement conference:

- 12 a. Goals in the litigation and problems they would like to address in the
13 settlement conference and understanding of the opposing side’s goals.
- 14 b. The issues (in and outside the lawsuit) that need to be resolved.
- 15 c. The strengths and weaknesses of their case.
- 16 d. Their understanding of the opposing side’s view of the case.
- 17 e. Their points of agreement and disagreement (factual and legal).
- 18 f. Any financial, emotional, and/or legal impediments to settlement.
- 19 g. Whether settlement or further litigation better enables the accomplishment
20 of their respective goals.
- 21 h. Any possibilities for a creative resolution of the dispute.

22 **5. Statements Inadmissible**

23 The parties are expected to address each other with courtesy and respect, and are
24 encouraged to be frank and open in their discussions. Statements made by any party during the

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28 ² Out of town or out of state travel and the purchase of an airplane ticket are not extenuating circumstances.

1 settlement conference are not to be used in discovery and will not be admissible at trial.

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IT IS SO ORDERED.

Dated: August 30, 2016

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE