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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**

10 TIMOTHY HOWARD,

11 Plaintiff,

12 vs.

13 D. L. DEAZEVEDO, et al.,

14 Defendants.
15

Case No. 1:11-cv-00101-AWI-SKO (PC)

ORDER SETTING SETTLEMENT
CONFERENCE

Date: 04/02/2015

Time: 1:00 p.m.

Place: Courtroom 25 (KJN)

16 This case has been selected for inclusion in the Prisoner Settlement Program based on the
17 parties' agreement that a settlement conference may be beneficial. This case is referred to United
18 States Magistrate Judge Kendall J. Newman to conduct a settlement conference at the U. S.
19 District Court, 501 I Street, Sacramento, California, 95814, in Courtroom #25 on April 2, 2015, at
20 1:00 p.m.

21 A separate order and writ of habeas corpus ad testificandum will issue concurrently with
22 this order.

23 In accordance with the above, the Court HEREBY ORDERS as follow:

- 24 1. This case is set for a settlement conference before United States Magistrate Judge
25 Kendall J. Newman on April 2, 2015, at 1:00 p.m. at the U. S. District Court, 501 I
26 Street, Sacramento, California, 95814, in Courtroom #25.

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- 1 2. A representative with full and unlimited authority to negotiate and enter into a binding
2 settlement on the defendants' behalf shall attend in person.^{1,2}
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4 3. Those in attendance must be prepared to discuss the claims, defenses and damages.
5 The failure of any counsel, party or authorized person subject to this order to appear in
6 person may result in the imposition of sanctions. In addition, the conference will not
7 proceed and will be reset to another date.
8 4. The parties are requested to send Judge Newman a settlement conference statement as
9 soon as possible but prior to April 2, 2015, so that he may ascertain each party's
10 expectations of the settlement conference.
11 5. The settlement conference statements shall address whether there have been any
12 previous settlement negotiations.
13 6. The Court recognizes that the timeline is short. Therefore, Deputy Attorney General
14 R. Lawrence Bragg is requested to send a copy of this order to the Litigation
15 Coordinator at California State Prison-Sacramento by facsimile and request it be hand
16 delivered to Plaintiff as soon as possible.

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20 ¹ While the exercise of its authority is subject to abuse of discretion review, "the district court has the authority to
21 order parties, including the federal government, to participate in mandatory settlement conferences..." *United States*
22 *v. United States District Court for the Northern Mariana Islands*, 694 F.3d 1051, 1053, 1057, 1059 (9th Cir. 2012)
23 ("the district court has broad authority to compel participation in mandatory settlement conference[s]"). The term
24 "full authority to settle" means that the individuals attending the mediation conference must be authorized to fully
25 explore settlement options and to agree at that time to any settlement terms acceptable to the parties. *G. Heileman*
26 *Brewing Co., Inc. v. Joseph Oat Corp.*, 871 F.2d 648, 653 (7th Cir. 1989), *cited with approval by Official Airline*
27 *Guides, Inc. v. Goss*, 6 F. 3d 1385, 1396 (9th Cir. 1993). The individual with full authority to settle must also have
28 "unfettered discretion and authority" to change the settlement position of the party, if appropriate. *Pittman 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.*, No.
 CV02-1886PHX DGC, 2003 WL 23353478, at *3 (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).

² Defense counsel Susan Coleman may appear by telephone.

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7. The Clerk's Office shall serve this order and the other two concurrently issued orders on Plaintiff at his address of record and at California State Prison-Sacramento.

IT IS SO ORDERED.

Dated: March 27, 2015



SENIOR DISTRICT JUDGE