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

MORTEZA BAKHTIARI,

Case No. 1:11-cv-00102 AWI JLT (PC)

Plaintiff,

ORDER SETTING SETTLEMENT  
CONFERENCE

vs.

JAMES A. YATES, et al.,

Defendants.

\_\_\_\_\_ /

Plaintiff is a state prisoner proceeding through counsel with an action under 42 U.S.C. § 1983. This case will be referred to Magistrate Judge Victor E. Bianchini to conduct a settlement conference at the U. S. District Court, 312 North Spring Street, Los Angeles, California 90012 in Courtroom #1600 on December 20, 2011 at 9:30 a.m.

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

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

1. This case is set for a settlement conference before Magistrate Judge Victor E. Bianchini on December 20, 2011, at 9:30 a.m. at the U. S. District Court, 312 North Spring Street, Los Angeles, California 90012 in Courtroom #1600.

1           2. Defendants' lead counsel and a person with full and unlimited authority to  
2 negotiate and enter into a binding settlement on defendants' behalf shall attend in person.<sup>1</sup>

3           3. Those in attendance must be prepared to discuss the claims, defenses and  
4 damages. The failure of any counsel, party or authorized person subject to this order to appear  
5 in person may result in the imposition of sanctions. In addition, the conference will not proceed  
6 and will be reset to another date.

7           4. Each party to this action shall, no later than December 12, 2011, complete and  
8 submit the attached Pre-Settlement Conference Questionnaire to the following address:

9 Sujean Park, ADR Division  
10 Unites States District Court  
11 501 I Street, Suite 4-200  
12 Sacramento, California 95814  
13 or via email to: [spark@caed.uscourts.gov](mailto:spark@caed.uscourts.gov)

14 Do not file the questionnaire with the Clerk's Office or mail a copy to the opposing party. All  
15 responses to the questionnaire will remain confidential and will not be shared with the opposing  
16 party or the assigned judge.

17 IT IS SO ORDERED.

18 Dated: November 1, 2011

/s/ Jennifer L. Thurston  
UNITED STATES MAGISTRATE JUDGE

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20           <sup>1</sup>The 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 (7<sup>th</sup> Cir. 1989), cited with approval in Official Airline Guides, Inc. v. Goss, 6  
24 F. 3d 1385, 1396 (9<sup>th</sup> 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  
26 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., 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  
(8<sup>th</sup> Cir. 2001).

**PRISONER SETTLEMENT PROGRAM  
PRE-SETTLEMENT CONFERENCE QUESTIONNAIRE**

SUBMITTED BY: \_\_\_\_\_

1 Counsel for (if applicable) \_\_\_\_\_

2 CASE NAME AND NO. MORTEZA BAKHTIARI V. JAMES A. YATES, ET AL. - CV11-0102

3 Please attach your response to this cover page. Your complete response, including attachments, should  
4 not exceed seven (7) pages.

5 **PLEASE TYPE OR PRINT CLEARLY.**

6 1. ALL PARTIES AND COUNSEL (To be answered by Plaintiff, (s)):

- 7 a. Provide a short statement of the facts of this case.
- 8 b. Identify the major disputed legal issues.
- 9 c. Identify the major disputed factual issues.
- 10 d. State what efforts have been made to settle this matter prior to this conference.
- 11 e. Specify any and all previous offers made to settle this matter and provide the last best offer to settle made by each party.
- 12 f. Provide additional information, if any, which will aid the settlement judge (e.g., photographs, medical reports, investigative reports, disciplinary reports, compilation of damages, etc.)

13 2. PLAINTIFF (To be answered by Plaintiff):

- 14 a. State your evaluation of a fair settlement in this case (What relief are you seeking, including any non-monetary remedy you seek in settlement of your case?). **What is a fair settlement in this case?**
- 15 b. List all economic damages claimed in this case. (Economic damages are tangible losses, i.e., past and future medical expenses, loss of past and future earnings, loss of use of property, cost of repair or replacement, etc.)
- 16 c. List all non-economic damages claimed in this case. (Non-economic damages are intangible losses such as pain and suffering, emotional distress, etc.)
- 17 d. Specify reimbursement of costs, if any, claimed in your case.

18 3. DEFENDANT(s) (To be answered by Defendant(s) only):

- 19 a. Identify separately each party and the respective attorney of record.
- 20 b. Identify the Deputy Attorney General and California Department of Corrections and Rehabilitation representative who will appear at the settlement conference.
- 21 c. **State your evaluation of a fair settlement in this case.**
- 22 d. Describe any client problems affecting these negotiations and whether client and attorney agree on the settlement value.

23  
24 **Responses to the Pre-Settlement Conference Questionnaire are vital to a productive settlement conference. The parties are instructed to treat these responses with as much importance as they would trial preparation materials.**

25  
26 **If you wish your submissions to be seen only by the judge, prominently mark them CONFIDENTIAL.**