

- 1 2. Plaintiff is to appear at the settlement conference by video conference from his present
2 place of confinement.
- 3 3. Parties are instructed to have a principal with full settlement authority present at the
4 Settlement Conference or to be fully authorized to settle the matter on any terms. The
5 individual with full authority to settle must also have “unfettered discretion and
6 authority” to change the settlement position of the party, if appropriate. The purpose
7 behind requiring the attendance of a person with full settlement authority is that the
8 parties’ view of the case may be altered during the face to face conference. An
9 authorization to settle for a limited dollar amount or sum certain can be found not to
10 comply with the requirement of full authority to settle¹.
- 11 4. Parties are directed to submit confidential settlement statements no later than
12 November 7, 2017. Plaintiff shall mail his confidential settlement statement Attn:
13 Magistrate Judge Carolyn K. Delaney, USDC CAED, 501 I Street, Suite 4-200,
14 Sacramento, California 95814 so it arrives no later than November 7, 2017. The
15 envelope shall be marked “CONFIDENTIAL SETTLEMENT CONFERENCE
16 STATEMENT.” Defendant shall send the statement to ckdorders@caed.uscourts.gov.
17 Parties are also directed to file a “Notice of Submission of Confidential Settlement
18 Statement” (See L.R. 270(d)).

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21 ¹ While the exercise of its authority is subject to abuse of discretion review, “the district court has the
22 authority to order parties, including the federal government, to participate in mandatory settlement
23 conferences... ” United States v. United States District Court for the Northern Mariana Islands, 694 F.3d
24 1051, 1053, 1057, 1059 (9th Cir. 2012)(“the district court has broad authority to compel participation in
25 mandatory settlement conference[s].”). The term “full authority to settle” means that the individuals
26 attending the mediation conference must be authorized to fully explore settlement options and to agree at
27 that time to any settlement terms acceptable to the parties. G. Heileman Brewing Co., Inc. v. Joseph Oat
28 Corp., 871 F.2d 648, 653 (7th Cir. 1989), cited with approval in Official Airline Guides, Inc. v. Goss, 6
 F.3d 1385, 1396 (9th Cir. 1993). The individual with full authority to settle must also have “unfettered
 discretion and authority” to change the settlement position of the party, if appropriate. Pitman 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 (8th Cir. 2001).

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- 5. Settlement statements **should not be filed** with the Clerk of the Court **nor served on any other party**. Settlement statements shall be clearly marked “confidential” with the date and time of the settlement conference indicated prominently thereon.
- 6. The confidential settlement statement shall be **no longer than five pages** in length, typed or neatly printed, and include the following:
 - a. A brief statement of the facts of the case.
 - b. A brief statement of the claims and defenses, i.e., statutory or other grounds upon which the claims are founded; a forthright evaluation of the parties’ likelihood of prevailing on the claims and defenses; and a description of the major issues in dispute.
 - c. A summary of the proceedings to date.
 - d. An estimate of the cost and time to be expended for further discovery, pretrial, and trial.
 - e. The relief sought.
 - f. The party’s position on settlement, including present demands and offers and a history of past settlement discussions, offers, and demands.
 - g. A brief statement of each party’s expectations and goals for the settlement conference.

IT IS SO ORDERED.

Dated: October 2, 2017

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE