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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

NICOLAS MORAN,
Plaintiff,
v.
K. DUTRA, et al.,
Defendants.

Case No. 1:11-cv-00914-LJO-MJS (PC)

**ORDER SETTING SETTLEMENT
CONFERENCE**

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil rights action brought pursuant to 42 U.S.C. § 1983. The court has determined that this case will benefit from a settlement conference. Therefore, this case will be set for a settlement conference before the undersigned to occur at the U.S. District Court, 2500 Tulare Street, Fresno, California 93721 in Courtroom #6 on July 1, 2016 at 10:00 a.m.

Parties will be required to file a signed Waiver of Disqualification (attached below), no later than May 20, 2016.

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 the undersigned to occur

1 on July 1, 2016, at 10:00 a.m. at the U. S. District Court, 2500 Tulare Street,
2 Fresno, California 93721 in Courtroom #6.

3 2. Parties are required to file a signed Waiver of Disqualification, or in the
4 alternative, file a request that another randomly assigned Magistrate Judge
5 conduct the settlement conference, no later than May 20, 2016.

6 3. A representative with full and unlimited authority to negotiate and enter into a
7 binding settlement shall attend in person¹.

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

12 5. Parties are directed to submit confidential settlement statements no later than
13 June 24, 2016, to the following email address: mjsorders@caed.uscourts.gov.
14 Plaintiff shall mail his confidential settlement statement to Sujean Park, ADR &
15 Pro Bono Program Director, USDC CAED, 501 I Street, Suite 4-200,
16 Sacramento, California 95814 so it arrives no later than June 24, 2016. The
17 envelope shall be marked "Confidential Settlement Statement." Parties are
18 also directed to file a "Notice of Submission of Confidential Settlement
19 Statement" (See L.R. 270(d)).

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

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: April 22, 2016

/s/ Michael J. Seng
UNITED STATES MAGISTRATE JUDGE

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UNITED STATES DISTRICT COURT
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Defendants.

Case No. 1:11-cv-00914-LJO-MJS (PC)

WAIVER OF DISQUALIFICATION

Under Local Rule 270(b) of the Eastern District of California, the parties to the herein action affirmatively request that Magistrate Judge Michael J. Seng participate in the settlement conference scheduled for July 1, 2016. To the extent the parties consent to trial of the case before the assigned Magistrate Judge, they waive any claim of

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disqualification to the assigned Magistrate Judge trying the case thereafter.

By:

Plaintiff

Dated: _____

By:

Attorney for defendants

Dated: _____