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

RAYMOND A. MCGINNIS,

Plaintiff,

1:11-cv-01337-LJO-JLT (PC)

v.

B. ATKINSON,

Defendant.

ORDER SETTING  
SETTLEMENT CONFERENCE

\_\_\_\_\_/

Plaintiff is a state prisoner proceeding pro se with an action under 42 U.S.C. §1983. This case will be referred to Magistrate Judge Barbara A. McAuliffe to conduct a settlement conference at the U. S. District Court, 2500 Tulare Street, Fresno, California 93721 on June 19, 2012 at 10:00 a.m.

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

1. This case is set for a settlement conference before Magistrate Judge Barbara A. McAuliffe on June 19, 2012, at 10:00 a.m. at the U. S. District Court, 2500 Tulare Street, Fresno, California 93721 in Courtroom #8.

2. Defendants' lead counsel and a person with full and unlimited authority to

1 negotiate and enter into a binding settlement on defendants' behalf shall attend in person.<sup>1</sup>

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

6 4. Each party shall provide a confidential settlement conference statement to  
7 Sujean Park, 501 I Street, Suite 4-200, Sacramento, California 95814, or via e-mail at  
8 [spark@caed.uscourts.gov](mailto:spark@caed.uscourts.gov), so they arrive no later than June 8, 2012 and file a Notice of  
9 Submission of Confidential Settlement Conference Statement (See Local Rule 270(d)).

10 Settlement statements **should not be filed** with the Clerk of the court **nor served**  
11 **on any other party**. Settlement statements shall be clearly marked "confidential" with the date  
12 and time of the settlement conference indicated prominently thereon.

13 The confidential settlement statement shall be **no longer than five pages** in  
14 length, typed or neatly printed, and include the following:

- 15 a. A brief statement of the facts of the case.
- 16 b. A brief statement of the claims and defenses, i.e., statutory or other  
17 grounds upon which the claims are founded; a forthright evaluation of the parties' likelihood of  
18 prevailing on the claims and defenses; and a description of the major issues in dispute.

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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 appropriate.  
26 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  
(8<sup>th</sup> Cir. 2001).

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- 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 and indicate the amount which the party will accept to settle.

IT IS SO ORDERED.

**Dated: June 1, 2012**

/s/ Barbara A. McAuliffe  
UNITED STATES MAGISTRATE JUDGE