

1 before Magistrate Judge Barbara A. McAuliffe at the U. S. District Court, 2500 Tulare
2 Street, Fresno, California 93721.

3 2. Plaintiff is to appear at the settlement conference by video conference from his present
4 place of confinement.

5 3. A representative with full and unlimited authority to negotiate and enter into a binding
6 settlement shall attend in person.¹

7 4. Those in attendance must be prepared to discuss the claims, defenses and damages.

8 The failure of any counsel, party or authorized person subject to this order to appear in
9 person may result in the imposition of sanctions. In addition, the conference will not
10 proceed and will be reset to another date.

11 5. Each party shall provide a confidential settlement statement to the following email

12 address: bamorders@caed.uscourts.gov. Plaintiff shall mail his confidential

13 settlement statement to Sujean Park, ADR & Pro Bono Program Director, USDC

14 CAED, 501 I Street, Suite 4-200, Sacramento, California 95814. The envelope shall

15 be marked "Confidential Settlement Statement". Settlement statements shall arrive no

16 later than June 22, 2016. Parties shall also file a Notice of Submission of Confidential

17 Settlement Conference Statement (See Local Rule 270(d)).

18 Settlement statements **should not be filed** with the Clerk of the Court **nor served on**

19 **any other party**. Settlement statements shall be clearly marked "confidential" with

20 the date and time of the settlement conference indicated prominently thereon.

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22 ¹ While the exercise of its authority is subject to abuse of discretion review, "the district court has the authority to
23 order parties, including the federal government, to participate in mandatory settlement conferences..." United States
24 v. United States District Court for the Northern Mariana Islands, 694 F.3d 1051, 1053, 1057, 1059 (9th Cir.
25 2012)("the district court has broad authority to compel participation in mandatory settlement conference[s]"). The
26 term "full authority to settle" means that the individuals attending the mediation conference must be authorized to
27 fully explore settlement options and to agree at that time to any settlement terms acceptable to the parties. G.
28 Heileman Brewing Co., Inc. v. Joseph Oat 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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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 18, 2016

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE