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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

BRENT ADLER,  
Plaintiff,  
v.  
F. GONZALEZ, et al.,  
Defendants.

CASE NO. 1:11-cv-1915-LJO-MJS (PC)  
**ORDER SETTING SETTLEMENT  
CONFERENCE**  
**DECEMBER 15, 2015 AT 1:30 PM  
COURTROOM #7**  
**2500 TULARE STREET, FRESNO,  
CALIFORNIA, 93721**

Plaintiff is a former state prisoner who initiated this civil rights action *pro se* and *in forma pauperis* on November 17, 2011. (ECF No. 1.) Plaintiff since has been released from prison and obtained counsel. (ECF Nos. 36 & 51.)

On September 3, 2015, parties filed a "Stipulated Request for Settlement Conference". (ECF No. 79.) The parties' request for a settlement conference will be granted and this case will be referred to Magistrate Judge Sheila K. Oberto to conduct a settlement conference at the U. S. District Court, 2500 Tulare Street, Fresno, California 93721 in Courtroom #7 on December 15, 2015 at 1:30 p.m.

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

1. The parties' stipulated request for a settlement conference is granted.
2. This case is set for a settlement conference before Magistrate Judge Sheila K.

1 Oberto on December 15, 2015 at 1:30 p.m. at the U. S. District Court, 2500  
2 Tulare Street, Fresno, California 93721 in Courtroom #7.

- 3 3. A representative with full and unlimited authority to negotiate and enter into a  
4 binding settlement shall attend in person.<sup>1</sup>
- 5 4. Those in attendance must be prepared to discuss the claims, defenses and  
6 damages. The failure of any counsel, party or authorized person subject to  
7 this order to appear in person may result in the imposition of sanctions. In  
8 addition, the conference will not proceed and will be reset to another date.
- 9 5. Each party shall provide a confidential settlement statement to the following  
10 email address: [skoorders@caed.uscourts.gov](mailto:skoorders@caed.uscourts.gov) no later than December 8, 2015  
11 and file a “Notice of Submission of Confidential Settlement Statement” (See  
12 L.R. 270(d)).

13  
14 Settlement statements **should not be filed** with the Clerk of the Court **nor**  
15 **served on any other party**. Settlement statements shall be clearly marked  
16 “confidential” with the date and time of the settlement conference indicated  
17 prominently thereon.

18  
19 The confidential settlement statement shall be **no longer than five pages** in

20  
21 <sup>1</sup> 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 1051,  
24 1053, 1057, 1059 (9<sup>th</sup> Cir. 2012)(“the district court has broad authority to compel participation in mandatory  
25 settlement conference[s].”). The term “full authority to settle” means that the individuals attending the  
26 mediation conference must be authorized to fully explore settlement options and to agree at that time to any  
27 settlement terms acceptable to the parties. G. Heileman Brewing Co., Inc. v. Joseph Oat Corp., 871 F.2d 648,  
28 653 (7<sup>th</sup> Cir. 1989), cited with approval in Official Airline Guides, Inc. v. Goss, 6 F.3d 1385, 1396 (9<sup>th</sup> 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 (8<sup>th</sup> Cir. 2001).

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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: September 28, 2015

/s/ Michael J. Seng  
UNITED STATES MAGISTRATE JUDGE