

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BARRY LOUIS LAMON,
Plaintiff,
v.
B. AMRHEIGN, et al.,
Defendants.

Case No. 1:12-cv-00296-DAD-BAM-PC

ORDER SETTING SETTLEMENT
CONFERENCE ON NOVEMBER 17, 2017

Plaintiff Barry Louis Lamon is a state prisoner proceeding pro se and in forma pauperis in this civil rights action filed 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 referred to Magistrate Judge Michael J. Seng to conduct a settlement conference at the California State Prison, Corcoran (CSP-COR), 4001 King Avenue, Corcoran, CA 93212 on November 17, 2017, at 9:00 a.m.

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

1. This case is set for a settlement conference before Magistrate Judge Michael J. Seng on November 17, 2017, at CSP-COR.

- 1 2. A representative with full and unlimited authority to negotiate and enter into a binding
2 settlement shall attend in person.¹
- 3 3. Those in attendance must be prepared to discuss the claims, defenses and damages. The
4 failure of any counsel, party or authorized person subject to this order to appear in person
5 may result in the imposition of sanctions. In addition, the conference will not proceed and
6 will be reset to another date.
- 7 4. The parties shall provide a confidential settlement statement prior to the settlement
8 conference. Plaintiff shall mail his confidential settlement statement to U.S. District Court,
9 2500 Tulare Street, Fresno, California, 93721, “**Attention: Magistrate Judge Michael J.**
10 **Seng.**” The envelope shall be marked “Confidential Settlement Statement”. The
11 settlement statement shall be mailed so that it arrives no later than November 10, 2017.
12 Defendants shall email their statement by November 10, 2017 to the following email
13 address: mjsorders@caed.uscourts.gov. The parties shall also file a Notice of Submission
14 of Confidential Settlement Statement (See Local Rule 270(d)). Settlement statements
15 **should not be filed** with the Clerk of the Court **nor served on any other party.**
16 Settlement statements shall be clearly marked “confidential” with the date and time of the
17 settlement conference indicated prominently thereon.

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

5. 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. An estimate of the cost and time to be expended for further discovery, pretrial, and trial.
 - d. The party's position on settlement, including present demands and offers and a history of past settlement discussions, offers, and demands.
 - e. A brief statement of each party's expectations and goals for the settlement conference, including how much a party is willing to accept and/or willing to pay.
6. The Clerk of the Court is directed to serve a copy of this order on the Litigation Office at COR via facsimile at (559) 992-7372.

IT IS SO ORDERED.

Dated: October 11, 2017

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE