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7 **UNITED STATES DISTRICT COURT**

8 **EASTERN DISTRICT OF CALIFORNIA**

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10 NORRIS LEE, Case No. 1:12-cv-00808-SKO (PC)
11 Plaintiff, **ORDER SETTING SETTLEMENT**
12 v. **CONFERENCE**
13 BALLESTEROS, **Date:** June 2, 2015
14 Defendant. **Time:** 10:30 a.m.
15 **Place:** Courtroom 10 (GSA)
16 _____ /

17 Plaintiff Norris Lee, a former state prisoner proceeding pro se and in forma pauperis, filed
18 this civil rights action pursuant to 42 U.S.C. § 1983 on May 17, 2012. This action for damages is
19 proceeding against Defendant Ballesteros (“Defendant”) for acting with deliberate indifference to
20 Plaintiff’s serious medical needs on May 27, 2011, in violation of the Eight Amendment of the
United States Constitution. Jury trial is currently set for August 18, 2015.

21 This case has been selected for inclusion in the Court’s Settlement Week Program.
22 Therefore, this case is referred to United States Magistrate Judge Gary S. Austin to conduct a
23 settlement conference at the U. S. District Court, 2500 Tulare Street, Fresno, California, 93721, in
24 Courtroom #10 on June 2, 2015, at 10:30 a.m.

25 In accordance with the above, the Court HEREBY ORDERS as follow:

26 1. This case is set for a settlement conference before United States Magistrate Judge Gary
27 S. Austin on June 2, 2015, at 10:30 a.m. at the U. S. District Court, 2500 Tulare Street,
28 Fresno, California, 93721, in Courtroom #10.

2. A representative with full and unlimited authority to negotiate and enter into a binding settlement on the defendant's behalf shall attend in person.¹
3. Those in attendance must be prepared to discuss the claims, defenses and damages. The failure of any counsel, party or authorized person subject to this order to appear in person may result in the imposition of sanctions. In addition, the conference will not proceed and will be reset to another date.
4. The parties are directed to submit their confidential settlement conference statements to the court using the following email address: gsaorders@caed.uscourts.gov. Plaintiff may mail his confidential settlement statement addressed to U.S. Magistrate Judge Gary S. Austin, USDC CAED, 2500 Tulare Street, Room 1501, Fresno, CA, 93721. The envelope shall be marked "Confidential Settlement Statement." If a party desires to share additional confidential information with the court, they may do so pursuant to the provisions of Local Rule 270(d) and (e). Statements are due at least 7 days prior to the settlement conference.

IT IS SO ORDERED.

Dated: **April 16, 2015**

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE

21 ¹ While the exercise of its authority is subject to abuse of discretion review, “the district court has the authority to
22 order parties, including the federal government, to participate in mandatory settlement conferences....” *United States*
23 *v. United States District Court for the Northern Mariana Islands*, 694 F.3d 1051, 1053, 1057, 1059 (9th Cir. 2012)
24 (“the district court has broad authority to compel participation in mandatory settlement conference[s].”). The term
25 “full authority to settle” means that the individuals attending the mediation conference must be authorized to fully
26 explore settlement 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 by Official Airline*
28 *Guides, Inc. v. Goss*, 6 F. 3d 1385, 1396 (9th Cir. 1993). The individual with full authority to settle must also have
29 “unfettered discretion and authority” to change the settlement position of the party, if appropriate. *Pittman v. Brinker*
30 *Intl. Inc.*, 216 F.R.D. 481, 485-86 (D. Ariz. 2003), *amended on recon. in part, Pitman v. Brinker Intl. Inc.*, No.
31 CV02-1886PHX DGC, 2003 WL 23353478, at *3 (D. Ariz. 2003). The purpose behind requiring the attendance of a
32 person with full settlement authority is that the parties’ view of the case may be altered during the face to face
33 conference. *Pitman*, 216 F.R.D. at 486. An authorization to settle for a limited dollar amount or sum certain can be
34 found not to comply with the requirement of full authority to settle. *Nick v. Morgan’s Foods, Inc.*, 270 F. 3d 590, 596-
35 97 (8th Cir. 2001).