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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
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11 MARLON BLACHER,

12 Plaintiff,

13 v.

14 S. JOHNSON,

15 Defendant.

Case No. 1:12-cv-01159-EPG (PC)

ORDER DENYING REQUEST TO AMEND
WRIT OF HABEAS CORPUS AD
TESTIFICANDUM

(ECF No. 89)

16
17 Plaintiff Marlon Blacher, proceeding pro se and in forma pauper, filed this civil rights
18 action pursuant to 42 U.S.C. § 1983 on July 16, 2012. This matter is currently set for a
19 settlement conference before the undersigned on April 18, 2017, at 10:30 a.m. in Courtroom 9.
20 On March 9, 2017, an order and writ of habeas corpus ad testificandum issued commanding the
21 warden to transport Plaintiff for the settlement conference. On March 22, 2017, Plaintiff filed a
22 motion requesting the March 9, 2017 order be amended to allow him to make a telephonic or
23 video appearance at the settlement conference.¹
24

25 ¹ Plaintiff's filings contain archaic legal and irrelevant verbiage, commonly associated with the common law
26 pleading practice, that serves no purpose in modern pleading practice. Some of plaintiff's verbiage is not even
27 common law verbiage and is simply irrelevant. Plaintiff is advised that common law pleading and procedural
28 practice has long been abolished by the adoption of the Federal Rules of Civil Procedure in 1937, and it is no longer
necessary to recite archaic and complex legal terms in pleadings filed with the Court. See 5 Charles Alan Wright &
Arthur R. Miller, Federal Practice and Procedure § 1181 (3d ed. 2012) (discussing modern "simple and elastic
pleading and motion procedure ... placing a minimum emphasis on form" and the abolishment of "ancient
procedural dogma").

1 Plaintiff argues that the Court should allow him to appear by telephone or video pursuant
2 to 42 U.S.C. 1997e(f)(1). Section 1997e(f)(1) applies to inmates challenging their conditions of
3 confinement and provides that “[t]o the extent practicable” pretrial proceedings in which an
4 inmate’s participation is required or permitted shall be conducted by telephone, video
5 conference, or other telecommunications technology without removing the inmate from the
6 facility in which he is confined.

7 Generally, the Court allows inmates to appear telephonically for all pretrial proceedings,
8 however, the Court finds that settlement conference are not productive without the ability to have
9 face to face contact with the participants. For this reason, the Court requires parties to personally
10 appear for settlement conferences. Plaintiff requests that he be allowed to appear by video,
11 however, the Court’s past experience has demonstrated that the California Department of
12 Corrections video conferencing system can be unreliable; and therefore, is insufficient for the
13 purposes of conducting a settlement conference. Therefore, the Court finds that it is not
14 practicable to allow an inmate to appear by video conference at a settlement conference

15 Based on the foregoing, IT IS HEREBY ORDERED that Plaintiff’s motion to alter or
16 amend the order and writ is DENIED.

17
18 IT IS SO ORDERED.

19 Dated: March 23, 2017


UNITED STATES MAGISTRATE JUDGE