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**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

PETER CASEY CRUZ,  
Plaintiff,  
v.  
JONATHAN HAMRICK,  
Defendant.

Case No. 1:13-cv-00988-LJO-EPG (PC)  
  
ORDER SETTING SETTLEMENT  
CONFERENCE

Peter Casey Cruz (“Plaintiff”) is appearing *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 Jennifer L. Thurston to conduct a settlement conference at the U. S. District Court, 510 19<sup>th</sup> Street, Bakersfield, California 93301 on February 8, 2018, at 9:00 a.m.

A separate order and writ of habeas corpus ad testificandum will issue concurrently with this order.

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

1. This case is set for a settlement conference before Magistrate Judge Jennifer L. Thurston on February 8, 2018, at 9:00 a.m. at the U. S. District Court, 510 19<sup>th</sup> Street, Bakersfield, California 93301.
2. Plaintiff will appear at the settlement conference by video conference, from his present

1 place of detainment, as directed by separate order.

- 2 3. A representative with full and unlimited authority to negotiate and enter into a binding  
3 settlement shall attend in person.<sup>1</sup>
- 4 4. Those in attendance must be prepared to discuss the claims, defenses, and damages.  
5 The failure of any counsel, party, or authorized person subject to this order to appear  
6 in person may result in the imposition of sanctions.<sup>2</sup> In addition, the conference will  
7 not proceed and will be reset to another date.
- 8 5. At least 14 days before the settlement conference, Plaintiff SHALL submit to  
9 Defendant, by mail, a written itemization of damages and a meaningful settlement  
10 demand, which includes a brief explanation of why such a settlement is appropriate,  
11 not to exceed ten pages in length. Thereafter, no later than 10 days before the  
12 settlement conference, defendant SHALL respond, by telephone or in person, with an  
13 acceptance of the offer or with a meaningful counteroffer, which includes a brief  
14 explanation of why such a settlement is appropriate. If settlement is achieved, defense  
15 counsel is to immediately inform the courtroom deputy of Magistrate Judge Thurston.
- 16 6. If settlement is not achieved informally, each party shall provide a confidential  
17 settlement statement to Sujean Park, ADR Division, 501 I Street, Suite 4-200,  
18 Sacramento, California 95814, or by email to spark@caed.uscourts.gov so they arrive  
19 no later than February 1, 2018, and file a “Notice of Submission of Confidential

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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).

<sup>2</sup> Plaintiff is not required to appear in person.

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Settlement Statement” (See L.R. 270(d)).

7. Settlement statements **should not be filed** with the Clerk of the Court **nor served on any other party**. Settlement statements shall be clearly marked “confidential” with the date and time of the settlement conference indicated prominently thereon. 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: August 14, 2017

/s/ Eric P. Gray  
UNITED STATES MAGISTRATE JUDGE