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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

DIJON KINNEY,  
Plaintiff,  
v.  
P.D. BRAZELTON, et al.,  
Defendants.

Case No. 1:14-cv-00503-AWI-MJS (PC)

**ORDER SETTING SETTLEMENT  
CONFERENCE**

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil rights action brought 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 Barbara A. McAuliffe to conduct a settlement conference at the U. S. District Court, 2500 Tulare Street, Fresno, California 93721 on December 5, 2016 at 9:30 a.m.

A separate order and writ of habeas corpus ad testificandum to secure Plaintiff's attendance will issue approximately thirty days prior to the settlement conference.

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

1. This case is set for a settlement conference before Magistrate Judge Barbara A. McAuliffe on December 5, 2016 at 9:30 a.m. at the U. S. District Court, 2500 Tulare Street, Fresno, California 93721 in Courtroom #8.
2. Plaintiff will appear at the settlement conference by video conference, from his

1 present place of confinement, as directed by separate order.

- 2 3. A representative with full and unlimited authority to negotiate and enter into a  
3 binding settlement shall attend in person.<sup>1</sup>
- 4 4. Those in attendance must be prepared to discuss the claims, defenses and  
5 damages. The failure of any counsel, party or authorized person subject to  
6 this order to appear in person may result in the imposition of sanctions. In  
7 addition, the conference will not proceed and will be reset to another date.
- 8 5. Each party shall provide a confidential settlement statement to the following  
9 email address: [bamorders@caed.uscourts.gov](mailto:bamorders@caed.uscourts.gov). Plaintiff shall mail his  
10 confidential settlement statement to Sujean Park, ADR & Pro Bono Program  
11 Director, USDC CAED, 501 I Street, Suite 4-200, Sacramento, California  
12 95814. The envelope shall be marked "Confidential Settlement Statement".  
13 Settlement statements shall arrive no later than November 28, 2016. Parties  
14 shall also file a "Notice of Submission of Confidential Settlement Statement"  
15 (See L.R. 270(d)).

16  
17 Settlement statements **should not be filed** with the Clerk of the Court **nor**  
18 **served on any other party**. Settlement statements shall be clearly marked  
19 "confidential" with the date and time of the settlement conference indicated

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

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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: September 29, 2016

*/s/ Michael J. Seng*  
UNITED STATES MAGISTRATE JUDGE