

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

12 IRVIN VAN BUREN,
13 Plain
14 v.
15 C. WADDLE, et al.,
16 Def.

CASE NO. 1:14-cv-01894-DAD-MJS (PC)

ORDER SETTING SETTLEMENT CONFERENCE

18 Plaintiff is a prisoner proceeding with counsel and in forma pauperis in this civil
19 rights action brought pursuant to 42 U.S.C. § 1983. The Court has determined that this
20 case will benefit from a settlement conference. Therefore, this case will be referred to
21 Magistrate Judge Barbara A. McAuliffe to conduct a settlement conference at the U. S.
22 District Court, 2500 Tulare Street, Fresno, California 93721 in Courtroom #8 on August
23 7, 2017 at 9:30 a.m.

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

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

27 1. This case is set for a settlement conference before Magistrate Judge Barbara
28 A. McAuliffe on August 7, 2017 at 9:30 a.m. at the U. S. District Court, 2500

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2 Tulare Street, Fresno, California 93721 in Courtroom #8.

3 2. A representative with full and unlimited authority to negotiate and enter into a
4 binding settlement on defendant's behalf shall attend in person.¹

5 3. Those in attendance must be prepared to discuss the claims, defenses and
6 damages. The failure of any counsel, party or authorized person subject to
7 this order to appear in person may result in the imposition of sanctions. In
8 addition, the conference will not proceed and will be reset to another date.

9 4. The parties are directed to submit confidential settlement statements to the
10 court using the following email address: bamorders@caed.uscourts.gov.
11 Settlement statements shall arrive no later than July 31, 2017. Upon
12 submission of confidential settlement statements, each party shall file on the
13 docket a "Notice of Submission of Confidential Settlement Statement." (See
14 L.R. 270(d)).

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

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22 ¹ While the exercise of its authority is subject to abuse of discretion review, "the district court has the
23 authority to order parties, including the federal government, to participate in mandatory settlement
24 conferences...." United States v. United States District Court for the Northern Mariana Islands, 694 F.3d
25 1051, 1053, 1057, 1059 (9th Cir. 2012) ("the district court has broad authority to compel participation in
26 mandatory settlement conference[s]."). The term "full authority to settle" means that the individuals
27 attending the mediation conference must be authorized to fully explore settlement options and to agree at
28 that time to any settlement terms acceptable to the parties. G. Heileman Brewing Co., Inc. v. Joseph Oat
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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2 The confidential settlement statement shall be **no longer than five pages** in
3 length, typed or neatly printed, and include the following:

4 a. A brief statement of the facts of the case.
5 b. A brief statement of the claims and defenses, i.e., statutory or other
6 grounds upon which the claims are founded; a forthright evaluation of the
7 parties' likelihood of prevailing on the claims and defenses; and a
8 description of the major issues in dispute.
9 c. A summary of the proceedings to date.
10 d. An estimate of the cost and time to be expended for further discovery,
11 pretrial, and trial.
12 e. The relief sought.
13 f. The party's position on settlement, including present demands and offers
14 and a history of past settlement discussions, offers, and demands.
15 g. A brief statement of each party's expectations and goals for the settlement
16 conference.

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18 IT IS SO ORDERED.

19 Dated: June 26, 2017

20 _____
21 */s/ Michael J. Seng*
22 UNITED STATES MAGISTRATE JUDGE

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