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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

SCOTT K. RICKS,

 Plaintiff,

 v.

C. KAMENA,

 Defendant.

Case No. 1:15-cv-00715-DAD-BAM (PC)

ORDER SETTING SETTLEMENT
CONFERENCE

Plaintiff Scott K. Ricks (“Plaintiff”) is a former state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This case is currently set for a jury trial on July 9, 2019. 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 19th Street, Bakersfield, California 93301 on March 4, 2019 at 9:00 a.m.

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 March 4, 2019 at 9:00 a.m. at the U. S. District Court, 510 19th Street, Bakersfield, California 93301.

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- 1 2. Parties are instructed to have a principal with full settlement authority present at the
2 Settlement Conference or to be fully authorized to settle the matter on any terms. The
3 individual with full authority to settle must also have “unfettered discretion and
4 authority” to change the settlement position of the party, if appropriate. The purpose
5 behind requiring the attendance of a person with full settlement authority is that the
6 parties’ view of the case may be altered during the face to face conference. An
7 authorization to settle for a limited dollar amount or sum certain can be found not to
8 comply with the requirement of full authority to settle.¹
- 9 3. Those in attendance must be prepared to discuss the claims, defenses and damages.
10 The failure or refusal of any counsel, party or authorized person subject to this order to
11 appear in person may result in the cancellation of the conference and the imposition of
12 sanctions.
- 13 4. At least **twenty-one (21) days** before the settlement conference, Plaintiff SHALL
14 submit to Defendant, by mail, a written itemization of damages and a meaningful
15 settlement demand, which includes a brief explanation of why such a settlement is
16 appropriate, not to exceed ten pages in length. Thereafter, no later than **fourteen (14)**
17 **days** before the settlement conference, Defendant SHALL respond, by telephone or in
18 person, with an acceptance of the offer or with a meaningful counteroffer, which
19 includes a brief explanation of why such a settlement is appropriate. If settlement is
20 achieved, defense counsel is to immediately inform the courtroom deputy of

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22 ¹ While the exercise of its authority is subject to abuse of discretion review, “the district court has the authority to
23 order parties, including the federal government, to participate in mandatory settlement conferences. . . .” United States
24 v. United States District Court for the Northern Mariana Islands, 694 F.3d 1051, 1053, 1057, 1059 (9th Cir.
25 2012)(“the district court has broad authority to compel participation in mandatory settlement conference[s].”). The
26 term “full authority to settle” means that the individuals attending the mediation conference must be authorized to
27 fully explore settlement options and to agree at that time to any settlement terms acceptable to the parties. G.
28 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).

1 Magistrate Judge Thurston.

- 2 5. If settlement is not achieved informally, each party shall provide a confidential
3 settlement statement no later than **February 25, 2019** to jltorders@caed.uscourts.gov.
4 Plaintiff may mail his confidential settlement statement Attn: Magistrate Judge
5 Jennifer L. Thurston, U.S. District Court, 510 19th Street, Suite 200, Bakersfield,
6 California 93301 so it arrives no later than **February 25, 2019**. The envelope shall be
7 marked “CONFIDENTIAL SETTLEMENT CONFERENCE STATEMENT.” Parties
8 are also directed to file a “Notice of Submission of Confidential Settlement Statement”
9 (See L.R. 270(d)).
- 10 6. Settlement statements **should not be filed** with the Clerk of the Court **nor served on**
11 **any other party**. Settlement statements shall be clearly marked “confidential” with
12 the date and time of the settlement conference indicated prominently thereon.
- 13 7. The confidential settlement statement shall be **no longer than five pages** in length,
14 typed or neatly printed, and include the following:
- 15 a. A brief statement of the facts of the case.
 - 16 b. A brief statement of the claims and defenses, i.e., statutory or other grounds upon
17 which the claims are founded; a forthright evaluation of the parties’ likelihood of
18 prevailing on the claims and defenses; and a description of the major issues in
19 dispute.
 - 20 c. A summary of the proceedings to date.
 - 21 d. An estimate of the cost and time to be expended for further discovery, pretrial, and
22 trial.
 - 23 e. The relief sought.
 - 24 f. The party’s position on settlement, including present demands and offers and a
25 history of past settlement discussions, offers, and demands.
 - 26 g. A brief statement of each party’s expectations and goals for the settlement
27 conference, including how much a party is willing to accept and/or willing to pay.
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h. If the parties intend to discuss the joint settlement of any other actions or claims not in this suit, give a brief description of each action or claim as set forth above, including case number(s), if applicable.

IT IS SO ORDERED.

Dated: November 16, 2018

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE