

1 settlement shall attend in person.²

- 2 3. Those in attendance must be prepared to discuss the claims, defenses, and damages at
3 issue in this case. The failure of any counsel, party, or authorized person subject to
4 this order to appear in person may result in the imposition of sanctions. In addition,
5 the conference will not proceed and will be reset to another date.
- 6 4. At least 21 days before the settlement conference, Plaintiff SHALL submit to
7 Defendants a written itemization of damages and a meaningful settlement demand,
8 which includes a brief explanation of why such a settlement is appropriate, not to
9 exceed ten pages in length. Thereafter, no later than 14 days before the settlement
10 conference, Defendants SHALL respond, in writing, with an acceptance of the offer or
11 with a meaningful counteroffer, which includes a brief explanation of why such a
12 settlement is appropriate. If settlement is achieved, defense counsel is to immediately
13 inform the courtroom deputy of Magistrate Judge Thurston.
- 14 5. If settlement is not achieved informally, each party shall provide a confidential
15 settlement statement to the following email address: jltorders@caed.uscourts.gov.
16 Settlement statements shall arrive no later than October 15, 2018. Parties shall also
17 file a Notice of Submission of Confidential Settlement Conference Statement (see L.R.
18 270(d)). Settlement statements **should not be filed** with the Clerk of the Court **nor**
19 **served on any other party**. Settlement statements shall be clearly marked
20 “confidential” with the date and time of the settlement conference indicated

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22 ² 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 conferences. . . .”
24 United States v. United States District Court for the Northern Mariana Islands, 694 F.3d 1051, 1053, 1057, 1059 (9th
25 Cir. 2012) (“the district court has broad authority to compel participation in mandatory settlement conference[s].”).
26 The term “full authority to settle” means that the individuals attending the mediation conference must be authorized
27 to 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).

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prominently thereon.

6. 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 the party's expectations and goals for the settlement conference, including how much a party is willing to accept and/or willing to pay.

IT IS SO ORDERED.

Dated: August 17, 2018

/s/ Eric P. Shroy
UNITED STATES MAGISTRATE JUDGE