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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MICHAEL BIRD,
Plaintiff,
v.
A. ZUNIGA, et al.,
Defendants.

CASE NO. 1:15-cv-00910-DAD-MJS (PC)

**ORDER GRANTING DEFENDANT'S
REQUEST FOR A SETTLEMENT
CONFERENCE AND STAY OF ACTION**

(ECF No. 42)

**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. On January 13, 2017, Defendant filed a Request for Settlement Conference and Stay of Action Pending Settlement Conference. (ECF No. 42.)

On review, the court a that this case would benefit from a settlement conference. It will be referred to Magistrate Judge Craig M. Kellison to conduct a settlement conference at the U.S. District Court, 501 I Street, Sacramento, California 95814 in Courtroom #4 on March 30, 2017 at 9:00 a.m. A separate order and writ of habeas corpus ad testificandum will issue approximately one month prior to the conference.

Additionally, the Court finds good cause for a brief stay of the action pending the

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2 outcome of the settlement conference. Discovery will be stayed and all pending
3 deadlines will be vacated. In the event the matter does not settle, discovery and
4 dispositive motion deadlines promptly will be reset.

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

- 6 1. Defendant's request for a settlement conference is granted.
- 7 2. This case is set for a settlement conference before Magistrate Judge Craig M.
8 Kellison on March 30, 2017 at 9:00 a.m. at the U. S. District Court, 501 I
9 Street, Sacramento, California 95814 in Courtroom #4.
- 10 3. A representative with full and unlimited authority to negotiate and enter into a
11 binding settlement on the defendants' behalf shall attend in person.¹
- 12 4. Those in attendance must be prepared to discuss the claims, defenses and
13 damages. The failure of any counsel, party or authorized person subject to
14 this order to appear in person may result in the imposition of sanctions. In
15 addition, the conference will not proceed and will be reset to another date.
- 16 5. Judge Kellison or another representative from the court will be contacting the
17 parties either by telephone or in person, approximately two weeks prior to the
18 settlement conference, to ascertain each party's expectations of the settlement
19 conference.
- 20 6. This case is stayed, pending the completion of the settlement conference.

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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, 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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- 7. All pending deadlines are vacated.
- 8. Discovery and dispositive motion deadlines will be reset following the settlement conference if necessary.

IT IS SO ORDERED.

Dated: January 19, 2017

/s/ Michael J. Seng
UNITED STATES MAGISTRATE JUDGE