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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DAVID A. ESTRADA,

Plaintiff,

v.

OLGA BEREHOVSKAYA, et al.,

Defendants.

Case No. 1:15-cv-01335-LJO-EPG (PC)

ORDER SETTING SETTLEMENT
CONFERENCE ON NOVEMBER 17, 2017

David A. Estrada (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action filed 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 Michael J. Seng to conduct a settlement conference at California State Prison, Corcoran (CSP-COR), 4001 King Avenue, Corcoran, CA 93212, on November 17, 2017, at 9:00 a.m. The Court will issue the necessary transportation writ in due course.

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

1. This case is set for a settlement conference before Magistrate Judge Michael J. Seng on November 17, 2017, at CSP-COR.
2. A representative with full and unlimited authority to negotiate and enter into a binding

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1 settlement shall attend in person.¹

- 2 3. Those in attendance must be prepared to discuss the claims, defenses, and damages at issue
3 in this case. The failure of any counsel, party, or authorized person subject to this order to
4 appear in person may result in the imposition of sanctions. In addition, the conference will
5 not proceed and will be reset to another date.
- 6 4. Defendants shall provide a confidential settlement statement to the following email
7 address: **mjsorders@caed.uscourts.gov**. Plaintiff shall mail his confidential settlement
8 statement to U.S. District Court, 2500 Tulare Street, Fresno, California, 93721,
9 **“Attention: Magistrate Judge Michael J. Seng.”** The envelope shall be marked
10 **“Confidential Settlement Statement.”** Settlement statements shall arrive no later than
11 November 10, 2017. Parties shall also file a Notice of Submission of Confidential
12 Settlement Conference Statement (See Local Rule 270(d)). Settlement statements **should**
13 **not be filed** with the Clerk of the Court **nor served on any other party**. Settlement
14 statements shall be clearly marked “confidential” with the date and time of the settlement
15 conference indicated prominently thereon.
- 16 5. The confidential settlement statement shall be **no longer than five pages** in length, typed
17 or neatly printed, and include the following:
- 18 a. A brief statement of the facts of the case.

20 ¹ While the exercise of its authority is subject to abuse of discretion review, “the district court
21 has the authority to order parties, including the federal government, to participate in mandatory
22 settlement conferences...” United States v. United States District Court for the Northern Mariana
23 Islands, 694 F.3d 1051, 1053, 1057, 1059 (9th Cir. 2012) (“the district court has broad authority to
24 compel participation in mandatory settlement conference[s].”). The term “full authority to settle”
25 means that the individuals attending the mediation conference must be authorized to fully explore
26 settlement options and to agree at that time to any settlement terms acceptable to the parties. G.
27 Heileman Brewing Co., Inc. v. Joseph Oat Corp., 871 F.2d 648, 653 (7th Cir. 1989), cited with
28 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 b. A brief statement of the claims and defenses, i.e., statutory or other grounds upon
2 which the claims are founded; a forthright evaluation of the party's likelihood of
3 prevailing on the claims and defenses; and a description of the major issues in
4 dispute.
- 5 c. An estimate of the cost and time to be expended for further discovery, pretrial, and
6 trial.
- 7 d. The party's position on settlement, including present demands and offers and a
8 history of past settlement discussions, offers, and demands.
- 9 e. A brief statement of each party's expectations and goals for the settlement
10 conference, including how much a party is willing to accept and/or willing to pay.
- 11

12 IT IS SO ORDERED.

13 Dated: September 25, 2017

14 /s/ Eric P. Grogan
15 UNITED STATES MAGISTRATE JUDGE
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