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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

STEWART MANAGO,
Plaintiff,

vs.

D. DAVEY, et al.,
Defendants.

1:16-cv-00399-LJO-GSA-PC

**ORDER GRANTING MOTION TO VACATE
SETTLEMENT CONFERENCE AND LIFT
STAY
(ECF No. 99.)**

**ORDER VACATING SETTLEMENT
CONFERENCE AND LIFTING STAY OF
PROCEEDINGS**

VACATED: Settlement Conference scheduled for
January 18, 2018 at 9:30 a.m. (BAM)

**ORDER REOPENING DISCOVERY AND
SETTING NEW DEADLINES FOR
DISCOVERY AND THE FILING OF
DISPOSITIVE MOTIONS**

New Discovery Deadline: February 28, 2018

New Dispositive Motions Deadline: April 30, 2018

I. BACKGROUND

Stewart Manago (“Plaintiff”) is a former state prisoner proceeding *pro se* and *in forma pauperis* with this civil rights action filed pursuant to 42 U.S.C. § 1983. This case now proceeds with the First Amended Complaint filed on April 18, 2016, against defendants J. Acevedo, D. Davey, A. Maxfield, E. Razo, M.V. Sexton, A. Valdez, and J. Vanderpoel (collectively, “Defendants”), on Plaintiff’s First Amendment retaliation claims. (ECF No. 13.)

1 On September 19, 2017, the court issued an order scheduling a settlement conference at
2 the court before Magistrate Judge Barbara A. McAuliffe, scheduled on January 18, 2018, at
3 9:30 a.m. (ECF No. 96.) On September 25, 2017, the court stayed all proceedings in this case
4 pending the results of the settlement conference. (ECF No. 98.)

5 On November 17, 2017, Plaintiff filed a motion to vacate the settlement conference and
6 lift the stay. (ECF No. 99.) On November 20, 2017, Defendants filed a response to the motion.
7 (ECF No. 100.)

8 **II. PLAINTIFF'S MOTION**

9 Plaintiff requests the court to vacate the settlement conference because “the assigned
10 Deputy Attorney General failed to act in ‘good faith.’” (ECF No. 99.) Plaintiff does not wish
11 to pursue settlement with the court’s intervention at this time and asserts that he does not have
12 funds to travel to court.

13 Defendants respond that they wish to proceed with the settlement conference. They
14 believe this case may be resolved for a reasonable sum and they intend to attend the settlement
15 conference ready to negotiate in good faith. Defendants point out that if this case does not
16 proceed to settlement, Plaintiff will nonetheless be required to travel to Fresno during the
17 course of this litigation.

18 The court shall not proceed with a settlement conference without the willingness of all
19 parties to attend and negotiate. Therefore, Plaintiff’s motion shall be granted. The court shall
20 vacate the settlement conference and lift the stay of proceedings in this case.

21 **III. CONCLUSION**

22 Accordingly, IT IS HEREBY ORDERED that:

- 23 1. Plaintiff’s motion, filed on November 17, 2017, is GRANTED;
- 24 2. The settlement conference scheduled for January 18, 2018, at 9:30 a.m. before
25 Magistrate Judge Barbara A. McAuliffe is VACATED;
- 26 3. The stay of proceedings in this case is LIFTED;
- 27 4. Discovery is now reopened with a new deadline of **February 28, 2018**, for the
28 parties to complete discovery, including the filing of motions to compel;

1 5. Pursuant to the court's order of September 6, 2017, and Plaintiff's RFP set three,
2 No. 1, Defendants are required to produce, within thirty days of the date of
3 service of this order, Lieutenant Donnahue's July 2, 2004, confidential
4 memorandum, after Defendants have redacted names and other sensitive or
5 confidential information they determine will cause safety and security concerns
6 if released; and

7 6. The deadline for the parties to file pretrial dispositive motions is extended from
8 December 6, 2017, to **April 30, 2018**.

9
10 IT IS SO ORDERED.

11 Dated: **December 11, 2017**

/s/ Gary S. Austin
12 UNITED STATES MAGISTRATE JUDGE
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