

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DAVID ESTRADA,

Plaintiff,

v.

J. VANDERPOEL, et al.,

Defendants.

Case No. 1:16-cv-00673-DAD-EPG (PC)

**ORDER SETTING SETTLEMENT
CONFERENCE ON NOVEMBER 17, 2017**

Plaintiff David Estrada is appearing pro se and in forma pauperis in this civil rights action 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 the California State Prison, Corcoran (CSP-COR), 4001 King Avenue, Corcoran, CA 93212 on November 17, 2017, 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 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

1 settlement shall attend in person.¹

- 2 3. Those in attendance must be prepared to discuss the claims, defenses and damages. The
3 failure of any counsel, party or authorized person subject to this order to appear in person
4 may result in the imposition of sanctions. In addition, the conference will not proceed and
5 will be reset to another date.
- 6 4. Parties shall provide a confidential settlement statement to the following email address:
7 **mjsorders@caed.uscourts.gov**. Plaintiff shall mail his confidential settlement statement
8 to U.S. District Court, 2500 Tulare Street, Fresno, California, 93721, **“Attention:**
9 **Magistrate Judge Michael J. Seng.”** The envelope shall be marked “Confidential
10 Settlement Statement”. Settlement statements shall arrive no later than November 10,
11 2017. Parties shall also file a Notice of Submission of Confidential Settlement Statement
12 (See Local Rule 270(d)). Settlement statements **should not be filed** with the Clerk of the
13 Court **nor served on any other party**. Settlement statements shall be clearly marked
14 “confidential” with the date and time of the settlement conference indicated prominently
15 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 has the
21 authority to order parties, including the federal government, to participate in mandatory settlement
22 conferences. . . .” United States v. United States District Court for the Northern Mariana Islands, 694
23 F.3d 1051, 1053, 1057, 1059 (9th Cir. 2012)(“the district court has broad authority to compel
24 participation in mandatory settlement conference[s].”). The term “full authority to settle” means that
25 the individuals attending the mediation conference must be authorized to fully explore settlement
26 options and to agree at that time to any settlement terms acceptable to the parties. G. Heileman
27 Brewing Co., Inc. v. Joseph Oat Corp., 871 F.2d 648, 653 (7th Cir. 1989), cited with approval in
28 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 parties' 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 22, 2017

14 /s/ Eric P. Grogan
15 UNITED STATES MAGISTRATE JUDGE
16
17
18
19
20
21
22
23
24
25
26
27
28