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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

BRIAN APPLGATE,  
Plaintiff,  
v.  
CCI, et al.,  
Defendants.

**Case No.: 1:16-cv-01343-DAD-MJS (PC)**  
**ORDER VACATING AND RESETTING  
SETTLEMENT CONFERENCE**

Plaintiff Brian Applegate is a state prisoner appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On May 11, 2017, the Court determined that this case would benefit from a settlement conference and referred the case to Magistrate Judge Stanley A. Boon to conduct a settlement conference on July 7, 2017. (ECF No. 25.) Due to a conflict on the Court's calendar, the settlement conference will be vacated and reset for July 14, 2017. A separate order and writ of habeas corpus ad testificandum will issue concurrently with this order.

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

1. The settlement conference set in this case to occur July 7, 2017 is vacated.
2. The settlement conference is reset before Magistrate Judge Stanley A. Boone for July 14, 2017 at 10:00 a.m. at the U. S. District Court, 2500 Tulare Street, Fresno, California 93721 in Courtroom #9.

- 1           **3. Due to plaintiff’s ongoing medical treatment, the Court requires that he be**  
2           **transported from Salinas Valley State Prison (SVSP) to the courthouse for**  
3           **the settlement conference and returned to SVSP on the same date.**
- 4           4. A representative with full and unlimited authority to negotiate and enter into a  
5           binding settlement shall attend in person.<sup>1</sup>
- 6           5. Those in attendance must be prepared to discuss the claims, defenses and  
7           damages. The failure of any counsel, party or authorized person subject to this  
8           order to appear in person may result in the imposition of sanctions. In addition, the  
9           conference will not proceed and will be reset to another date.
- 10          6. Defendants shall provide a confidential settlement statement to the following email  
11          address: [saborders@caed.uscourts.gov](mailto:saborders@caed.uscourts.gov). Plaintiff shall mail his confidential  
12          settlement statement to U.S. District Court, 2500 Tulare Street, Fresno, California,  
13          93721, **“Attention: Magistrate Judge Stanley A. Boone.”** The envelope shall be  
14          marked “Confidential Settlement Statement”. Settlement statements shall arrive  
15          no later than July 7, 2017. Parties shall also file a Notice of Submission of  
16          Confidential Settlement Statement (See Local Rule 270(d)). Settlement  
17          statements **should not be filed** with the Clerk of the Court **nor served on any**  
18          **other party**. Settlement statements shall be clearly marked “confidential” with the  
19          date and time of the settlement conference indicated prominently thereon.

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21           <sup>1</sup> While the exercise of its authority is subject to abuse of discretion review, “the district court has the  
22           authority to order parties, including the federal government, to participate in mandatory settlement  
23           conferences. . . .” United States v. United States District Court for the Northern Mariana Islands, 694  
24           F.3d 1051, 1053, 1057, 1059 (9th Cir. 2012) (“the district court has broad authority to compel  
25           participation in mandatory settlement conference[s].”). The term “full authority to settle” means that  
26           the individuals attending the mediation conference must be authorized to fully explore settlement  
27           options and to agree at that time to any settlement terms acceptable to the parties. G. Heileman  
28           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. 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 each 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: June 13, 2017

*/s/ Michael J. Seng*  
UNITED STATES MAGISTRATE JUDGE