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

MELVIN RAY BRUMMETT, JR.,
Plaintiff,
v.
R.A. DEAN,
Defendant.

Case No.: 1:16-cv-01400-AWI-SAB (PC)

ORDER SETTING SETTLEMENT
CONFERENCE ON SEPTEMBER 18, 2017

Plaintiff Melvin Ray Brummett, Jr. is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. As set forth in the screening order, plaintiff has stated a potentially cognizable civil rights claim. Thus, the Court will stay this action to allow the parties to investigate plaintiff's claims, meet and confer, and then participate in an early settlement conference. Therefore, this case will be referred to Magistrate Judge Barbara A. McAuliffe to conduct a settlement conference at the California State Prison, Corcoran (CSP-COR), 4001 King Avenue, Corcoran, CA 93212 on September 18, 2017, at 8:30 a.m. The Court will issue the necessary transportation order in due course.

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

1. This action is stayed until **September 18, 2017**, to allow the parties an opportunity to settle their dispute before a responsive pleading is filed, or the discovery process begins. Except as provided herein or by subsequent court order, no other pleadings or other documents

1 may be filed in this case during the stay of this action. The parties shall not engage in
2 formal discovery, but the parties may elect to engage in informal discovery.

3 2. This case is set for a settlement conference before Magistrate Judge Barbara A. McAuliffe
4 on **September 18, 2017**, at CSP-COR.

5 3. A representative with full and unlimited authority to negotiate and enter into a binding
6 settlement shall attend in person.¹

7 4. Those in attendance must be prepared to discuss the claims, defenses and damages. The
8 failure of any counsel, party or authorized person subject to this order to appear in person
9 may result in the imposition of sanctions. In addition, the conference will not proceed and
10 will be reset to another date.

11 5. Defendants shall provide a confidential settlement statement to the following email
12 address: **bamorders@caed.uscourts.gov**. Plaintiff shall mail his confidential settlement
13 statement to U.S. District Court, 2500 Tulare Street, Fresno, California, 93721,
14 **“Attention: Magistrate Judge Barbara A. McAuliffe.”** The envelope shall be marked
15 **“Confidential Settlement Statement”**. Settlement statements shall arrive no later than
16 **September 11, 2017**. Parties shall also file a Notice of Submission of Confidential
17 Settlement Statement (See Local Rule 270(d)). Settlement statements **should not be filed**
18 with the Clerk of the Court **nor served on any other party**. Settlement statements shall be
19 clearly marked “confidential” with the date and time of the settlement conference indicated
20 prominently thereon.

21
22 ¹ While the exercise of its authority is subject to abuse of discretion review, “the district court has the authority to order
23 parties, including the federal government, to participate in mandatory settlement conferences. . . .” United States v. United
24 States District Court for the Northern Mariana Islands, 694 F.3d 1051, 1053, 1057, 1059 (9th Cir. 2012)(“the district court
25 has broad authority to compel participation in mandatory settlement conference[s].”). The term “full authority to settle”
26 means that the individuals attending the mediation conference must be authorized to fully explore settlement options and to
27 agree at that time to any settlement terms acceptable to the parties. G. Heileman Brewing Co., Inc. v. Joseph Oat Corp.,
28 871 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, 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).

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6. 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. An estimate of the cost and time to be expended for further discovery, pretrial, and trial.
 - d. The party's position on settlement, including present demands and offers and a history of past settlement discussions, offers, and demands.
 - e. 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: July 19, 2017


UNITED STATES MAGISTRATE JUDGE