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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TONY ASBERRY,

Plaintiff,

v.

C. RELEVANTE, R. LOZOVYOY, A.
FERRIS, AND P. GODFREY,

Defendants.

Case No. 1:16-cv-01741-LJO-JDP

ORDER SETTING SETTLEMENT
CONFERENCE ON JANUARY 18, 2019

Plaintiff Tony Asberry, a state prisoner, proceeds without counsel 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 Stanley A. Boone to conduct a settlement conference at the California State Prison, Corcoran (CSP-COR), 4001 King Avenue, Corcoran, CA 93212 on January 18, 2019, at 8:30 a.m. The court will issue the necessary transportation order in due course.¹

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

1. This case is set for a settlement conference before Magistrate Judge Stanley A. Boone on

¹ Plaintiff testified during his deposition that his expected release date is sometime in 2019. *See* ECF No. 149 at 17:24-18:10. If plaintiff expects to be released before January 18, 2019, the date of the settlement conference, plaintiff must immediately inform the court.

1 January 18, 2019, at CSP-COR.

- 2 2. A representative with full and unlimited authority to negotiate and enter into a binding
3 settlement shall attend in person.²
- 4 3. Those in attendance must be prepared to discuss the claims, defenses and damages. The
5 failure of any counsel, party or authorized person subject to this order to appear in person
6 may result in the imposition of sanctions. In addition, the conference will not proceed and
7 will be reset to another date.
- 8 4. Defendants shall provide a confidential settlement statement to the following email
9 address: **saborders@caed.uscourts.gov**. Plaintiff shall mail his confidential settlement
10 statement to U.S. District Court, 2500 Tulare Street, Fresno, California, 93721,
11 **“Attention: Magistrate Judge Stanley A. Boone.”** The envelope shall be marked
12 **“Confidential Settlement Statement.”** Settlement statements shall arrive no later than
13 January 11, 2019. Parties shall also file a *Notice of Submission of Confidential Settlement*
14 *Statement* (See Local Rule 270(d)). Settlement statements **should not be filed** with the
15 Clerk of the Court **nor served on any other party**. Settlement statements shall be clearly
16 marked “confidential” with the date and time of the settlement conference indicated
17 prominently thereon.

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20 ² 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) (“[T]he 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).

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5. 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.
 - f. If the parties intend to discuss the joint settlement of any other actions or claims not in this suit, give a brief description of each action or claim as set forth above, including case number(s) if applicable.

IT IS SO ORDERED.

Dated: December 5, 2018


UNITED STATES MAGISTRATE JUDGE