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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

TONY ASBERRY,

Plaintiff,

v.

C. RELEVANTE, et al.,

Defendants,

CASE NO. 1:16-cv-01741-NONE-HBK

ORDER SETTING SETTLEMENT  
CONFERENCE AND PARAMETERS

**Settlement Statements due: June 4, 2021**  
**Settlement Conference: June 18, 2021**

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Magistrate Judge Helena Barch-Kuchta will hold a settlement conference on **June 18, 2021 at 10:00 a.m.** via video teleconference. The Zoom settlement conference invitation will be distributed the week prior.<sup>1</sup> The court has reserved the entire day for this settlement conference and expects the parties will proceed with the settlement conference in good faith and attempt to resolve all or part of the case. If any party believes that the settlement conference will not be productive, that party shall so inform the court as far in advance of the settlement conference as possible.

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<sup>1</sup>Any difficulties concerning Zoom video conference, or connecting to the Zoom video conference, shall immediately be reported to Kirstie Dunbar-Kari, Courtroom Deputy for the Hon. Helena Barch-Kuchta, United States Magistrate Judge, at kdunbar-kari@caed.uscourts.gov.

1 Unless otherwise permitted in advance by the court, the following individuals must attend the  
2 settlement conference in person: (1) all of the attorney(s) who will try the case; (2) the parties; and (3)  
3 individuals with full authority to negotiate and settle the case, on any terms. *See* Local Rule 270(f).

4 **No later than two weeks prior to the settlement conference**, each party must submit to  
5 Judge Barch-Kuchta's chambers at [hbkorders@caed.uscourts.gov](mailto:hbkorders@caed.uscourts.gov) or by mail at U.S. District Court,  
6 P.O. Box 575, Yosemite National Park, CA 95389, a settlement conference statement. These  
7 statements should neither be filed on the docket nor served on any other party.

8 In compliance with Local Rule 270(d)-(e), the settlement statements will be used exclusively  
9 for the undersigned to prepare for and conduct the settlement conference. They will not become part  
10 of the case file and will be shred thereafter under Local Rule 270(e). If applicable, the statements  
11 should be marked "CONFIDENTIAL." *See* Local Rule 270(d).

12 The statements should not exceed ten (10) pages and should include:

13 (1) a brief recitation of the facts;

14 (2) a discussion of the strengths and weaknesses of the case, including the parties' relevant  
15 position on the factual and legal issues and brief review of the evidence to support the parties' factual  
16 position;

17 (3) an itemized estimate of the expected costs for further discovery, pretrial, and trial matters,  
18 in specific dollar terms;

19 (4) your best estimate of the probability that plaintiff will prevail should this case proceed to  
20 trial;

21 (5) your best estimate of the damages or relief plaintiff may recover should this case proceed to  
22 trial and plaintiff prevail (in specific dollar terms and/or injunctive relief, if applicable);

23 (6) a history of settlement discussions (including a listing of any current settlement offers from  
24 any party, in specific dollar terms), a candid statement of your party's current position on settlement,  
25 including **the amount that you will give/accept to settle** (in specific dollar terms), and a statement of  
26 your expectations for settlement discussions;


27 (7) a list of the individuals who will be attending the settlement on the party's behalf, including  
28 names and, if appropriate, titles.

1 At the outset of the settlement conference, the undersigned may call upon the parties' counsel  
2 to give a brief (five-minute) opening presentation outlining the factual and legal highlights of their  
3 case before the parties break into separate caucuses. The undersigned reserves the right to dispense  
4 with the opening presentations of counsel if the undersigned determines that such presentations are not  
5 likely to be productive.

6 Notwithstanding the provisions of Federal Rule of Evidence 408, all statements made by the  
7 parties relating to the substance or merits of the case, whether written or oral, made for the first time  
8 during the settlement conference will be deemed to be confidential and shall not be admissible in  
9 evidence for any reason in the trial of the case, should the case not settle. This provision does not  
10 preclude admissibility in other contexts, such as pertaining to a motion for sanctions regarding the  
11 settlement conference.

12 IT IS SO ORDERED.

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14 Dated: April 29, 2021

  
15 HELENA M. BARCH-KUCHTA  
16 UNITED STATES MAGISTRATE JUDGE  
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