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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

TONY R. LEWIS,
Plaintiff,
v.
O. DELGADO, et al.,
Defendants.

Case No. 1:17-cv-01064-DAD-EPG (PC)

ORDER SETTING SETTLEMENT
CONFERENCE

Plaintiff, Tony R. Lewis, is a state prisoner proceeding pro se and in forma pauperis with 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 Jennifer L. Thurston to conduct a settlement conference at the U. S. District Court, 510 19th Street, Bakersfield, California 93301 on April 25, 2019, at 9:00 a.m.

The court will issue the necessary transportation order in due course.

In accordance with the above, IT IS ORDERED:

1. This case is set for a settlement conference before Magistrate Judge Jennifer L. Thurston on April 25, 2019, at 9:00 a.m. at the U. S. District Court, 510 19th Street, Bakersfield, California 93301.
2. A representative with full and unlimited authority to negotiate and enter into a binding settlement shall attend in person.¹

¹ While the exercise of its authority is subject to abuse of discretion review, "the district court has the authority to order parties, including the federal government, to participate in mandatory settlement conferences..." *United States v. United States District Court for the Northern Mariana Islands*, 694 F.3d 1051, 1053, 1057, 1059 (9th Cir. 2012)("[T]he district court has broad authority to compel participation in

- 1 3. Those in attendance must be prepared to discuss the claims, defenses and damages.
2 The failure of any counsel, party or authorized person subject to this order to appear in
3 person may result in the imposition of sanctions. In addition, the conference will not
4 proceed and will be reset to another date.
- 5 4. At least 21 days before the settlement conference, plaintiff SHALL submit to
6 defendant, by mail, a written itemization of damages and a meaningful settlement
7 demand, which includes a brief explanation of why such a settlement is appropriate,
8 not to exceed ten pages in length. Thereafter, no later than 14 days before the
9 settlement conference, defendant SHALL respond, by telephone or in person, with an
10 acceptance of the offer or with a meaningful counteroffer, which includes a brief
11 explanation of why such a settlement is appropriate. If settlement is achieved, defense
12 counsel is to immediately inform the courtroom deputy of Magistrate Judge Thurston.
- 13 5. If settlement is not achieved informally, each party shall provide a confidential
14 settlement statement no later than April 18, 2019, to jltorders@caed.uscourts.gov.
15 Plaintiff shall mail his confidential settlement statement Attn: Magistrate Judge
16 Jennifer L. Thurston, U.S. District Court, 510 19th Street, Suite 200, Bakersfield,
17 California 93301 so it arrives no later than April 18, 2019. The envelope shall be
18 marked “CONFIDENTIAL SETTLEMENT CONFERENCE STATEMENT.” Parties
19 are also directed to file a “Notice of Submission of Confidential Settlement Statement”
20 (See L.R. 270(d)).

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23 mandatory settlement conference[s].”). The term “full authority to settle” means that the individuals
24 attending the mediation conference must be authorized to fully explore settlement options and to agree at that
25 time to any settlement terms acceptable to the parties. *G. Heileman Brewing Co., Inc. v. Joseph Oat Corp.*, 871
26 F.2d 648, 653 (7th Cir. 1989), *cited with approval in Official Airline Guides, Inc. v. Goss*, 6 F.3d 1385, 1396 (9th
27 Cir. 1993). The individual with full authority to settle must also have “unfettered discretion and authority” to
28 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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Settlement statements **should not be filed** with the Clerk of the Court **nor served on any other party**. Settlement statements shall be clearly marked “confidential” with the date and time of the settlement conference indicated prominently thereon.

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.
- h. 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: February 6, 2019

/s/ Eric P. Shroy
UNITED STATES MAGISTRATE JUDGE