

1 and enter into a binding settlement on defendants' behalf shall attend in person.¹

2 3. Those in attendance must be prepared to discuss the claims, defenses and damages.

3 The failure of any counsel, party or authorized person subject to this order to appear in
4 person may result in the imposition of sanctions. In addition, the conference will not
5 proceed and will be reset to another date.

6 4. Defendants are directed to submit confidential settlement statements no later than
7 January 15, 2019 to jltorders@caed.uscourts.gov. The Court has already received
8 Plaintiff's confidential settlement statement. However, if Plaintiff feels he has not
9 adequately addressed one of the required topics listed below, he may send a brief
10 additional statement to the court at the above address so it arrives no later than January
11 15, 2019. The envelope shall be marked "Confidential Settlement Statement." If a
12 party desires to share additional confidential information with the Court, they may do
13 so pursuant to the provisions of Local Rule 270(d) and (e). Parties are also directed to
14 file a "Notice of Submission of Confidential Settlement Statement." (See L.R.
15 270(d).)

16 Settlement statements **should not be filed** with the Clerk of the Court **nor served on any**
17 **other party**. Settlement statements shall be clearly marked "confidential" with the date and time
18 of the settlement conference indicated prominently thereon. The confidential settlement
19 statement shall be **no longer than five pages** in length, typed or neatly printed, and include the
20 following:

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

IT IS SO ORDERED.

Dated: November 30, 2018

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE