UNITED STATE	S DISTRICT COURT
EASTERN DIST	RICT OF CALIFORNIA
KAREEM J. HOWELL,) No.: 1:18-cv-00467-BAM (PC)
Plaintiff, v.	 ORDER REFERRING CASE TO POST- SCREENING ADR AND STAYING CASE FOR 120 DAYS
S. BABB, et al., Defendants.	 Hearing: Settlement Conference Date: February 28, 2019 Time: 10:00 a.m. Judge: Stanley A. Boone Courtroom: 9
	EASTERN DIST KAREEM J. HOWELL, Plaintiff, v. S. BABB, et al.,

Plaintiff Kareem J. Howell is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. The Court accepted Plaintiff's allegations in the complaint as true only for the purpose of the sua sponte screening requirement under 28 U.S.C. § 1915, and found that Plaintiff stated a claim against Defendants Babb, Tumacder and Gallagher for a violation of his Fourteenth Amendment due process rights and for retaliation in violation of the First Amendment. (ECF No. 12.) On December 14, 2018, Defendants answered the first amended complaint. (ECF No. 17.)

Because it takes years to get to trial, the Court has identified this case as an appropriate case for post-screening ADR (Alternative Dispute Resolution), which is an effort to resolve such cases more expeditiously and less expensively. No claims, defenses, or objections shall be waived by the parties' participation. In appropriate cases, defense counsel from the California State Attorney General's Office has agreed to participate in these early settlements.

As set forth in the screening order, Plaintiff has stated a cognizable civil rights claim. But, stating a cognizable claim does not mean Plaintiff will prevail at trial. Thus, the Court stays this 28

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action for a period of 120 days to allow the parties to investigate Plaintiff's claims, meet and confer, and then participate in a settlement conference.

Therefore, this case will be referred to Magistrate Judge Stanley A. Boone to conduct a settlement conference at the United States Courthouse in Fresno, California on **February 28, 2019**, **at 10:00 a.m.** The Court will issue the necessary transportation order in due course.

In issuing this order, there is a presumption that this case will proceed to a settlement conference.¹ However, if after investigating Plaintiff's claims and speaking with Plaintiff, and after conferring with others, defense counsel in good faith finds that a settlement conference would be a waste of resources, defense counsel may move to opt out of this early settlement conference. A written notice to opt out must be filed within **thirty (30) days** of the date of the issuance of this order.

The parties shall each submit to Judge Boone a confidential settlement conference statement, as described below, to arrive at least seven days (one week) prior to the conference.

The Court puts the parties on notice that if Plaintiff has any outstanding criminal restitution obligation, fines and/or penalties, these settlement negotiations shall not be geared towards what the restitution obligation is, but what the value of the case itself is to each side, irrespective of any outstanding restitution obligation.

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

- This action is STAYED for 120 days to allow the parties an opportunity to settle their dispute before the discovery process begins. Except as provided herein or by subsequent court order, no other pleadings or other documents may be filed in this case during the stay of this action. The parties shall not engage in formal discovery, but may engage in informal discovery to prepare for the settlement conference.
 - This case is set for a settlement conference before Magistrate Judge Stanley A. Boone on February 28, 2019, at 10:00 a.m., at the United States Courthouse located at 2500 Tulare Street, Fresno, California.

¹ If the case does not settle, the Court will issue a Discovery and Scheduling Order.

- 3. A representative with full and unlimited authority to negotiate and enter into a binding settlement shall attend in person.
- 4. Those in attendance must be prepared to discuss the claims, defenses and damages. The failure or refusal of any counsel, party or authorized person subject to this order to appear in person may result in the cancellation of the conference and the imposition of sanctions. The manner and timing of Plaintiff's transportation to and from the conference is within the discretion of CDCR.
- 5. Defendants shall provide a confidential settlement statement to the following email address: saborders@caed.uscourts.gov. Plaintiff shall mail his confidential settlement statement to U.S. District Court, 2500 Tulare Street, Fresno, California, 93721, "Attention: Magistrate Judge Stanley A. Boone." The envelope shall be marked "Confidential Settlement Statement". Settlement statements shall arrive no later than February 21, 2019. Parties shall also file a Notice of Submission of Confidential Settlement Statement. See Local Rule 270(d). Settlement statements shall be clearly marked "confidential" with the date and time of the settlement conference indicated prominently thereon.
- 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.

1	e. A brief statement of each party's expectations and goals for the settlement
2	conference, including how much a party is willing to accept and/or willing to
3	pay.
4	f. If the parties intend to discuss the joint settlement of any other actions or claims
5	not in this suit, give a brief description of each action or claim as set forth above,
6	including case number(s), if applicable.
7	7. If a settlement is reached at any point during the stay of this action, the parties shall file
8	a Notice of Settlement in accordance with Local Rule 160.
9	8. If the defense counsel wishes to "opt- out" of this settlement for the reasons stated
10	above, counsel must do so within thirty (30) days of this order by filing a "Notice of
11	Opt-Out and Request to Vacate Settlement Conference."
12	9. The parties remain obligated to keep the Court informed of their current address at all
13	times during the stay and while the action is pending. Any change of address must be
14	reported promptly to the Court in a separate document captioned for this case and
15	entitled "Notice of Change of Address." See Local Rule 182(f).
16	10. A failure to follow these procedures may result in the imposition of sanctions by the
17	court.
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19	IT IS SO ORDERED.
20	Dated: December 17, 2018
21	UNITED STATES MAGISTRATE JUDGE
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