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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RICHARD SCOTT KINDRED,
Plaintiff,
v.
BRANDON PRICE, et al.,
Defendants.

Case No. 1:18-cv-00554-DAD-EPG (PC)

**ORDER SETTING SETTLEMENT
CONFERENCE AND PROCEDURES**

Plaintiff Richard Scott Kindred is a civil detainee proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.

The court previously directed the parties to participate in a settlement conference and the case was referred to the undersigned to conduct a settlement conference on May 31, 2022, at 10:00 a.m. with a telephonic pre-settlement conference on May 25, 2022, at 1:30 p.m. (Docs. 96, 97 & 99.) Recently, the Department of State Hospitals-Coalinga (DSH-Coalinga) notified defense counsel, who subsequently notified the Court, that Plaintiff is at an outside medical facility and will be unable to attend the scheduled settlement conference. The settlement conference, and telephonic pre-settlement conference, will therefore be vacated and reset. The settlement conference will be conducted by remote means, with all parties appearing by Zoom video conference.

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

- 2 1. The May 31, 2022 settlement conference and May 25, 2022 telephonic pre-settlement
3 conference are VACATED;
- 4 2. The writ issued on May 2, 2022 is VACATED;
- 5 3. The Court SETS a telephonic pre-settlement conference for **September 6, 2022, at**
6 **1:30 p.m.**, before Magistrate Judge Sheila K. Oberto to discuss whether the settlement
7 conference will be productive. Defense counsel shall arrange for Plaintiff's
8 participation. The parties shall dial 1-888-557-8511 and enter access code 6208204#
9 for the telephonic conference.
- 10 4. The Court SETS a settlement conference for **September 13, 2022, at 10:00 a.m.**,
11 before the undersigned and will be conducted over Zoom.¹ Defense counsel shall
12 arrange for Plaintiff's participation. Prior to the conference, defense counsel shall
13 contact Judge Oberto's courtroom deputy via email at wkusamura@caed.uscourts.gov
14 for the Zoom videoconference connection information. The Court will issue a writ of
15 *habeas corpus ad testificandum* to allow for Plaintiff's participation, as appropriate.
- 16 5. Each party or a representative with full authority to negotiate and enter into a binding
17 settlement agreement shall participate in the conference. The failure of any counsel,
18 party, or authorized person subject to this order to participate in the conference may
19 result in the imposition of sanctions.
- 20 6. Consideration of settlement is a serious matter that requires thorough preparation prior
21 to the settlement conference. Participants in the conference must be prepared to
22 discuss the claims, defenses, and damages.
- 23 7. The parties shall engage in informal settlement negotiations as follows:
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25 No later than **August 2, 2022**, Plaintiff shall submit to Defendants, by mail, a written
26 itemization of damages and a meaningful settlement demand, including a brief
27 explanation of why such settlement is appropriate, which shall not exceed 5 pages. No

28 ¹ The Court will notify the parties in advance if the settlement conference will proceed by other means.

1 later than **August 16, 2022**, Defendants shall respond, by mail or telephone, with an
2 acceptance of Plaintiff’s offer or a meaningful counteroffer, including a brief
3 explanation of why such a settlement is appropriate. If settlement is achieved, the
4 parties shall file a Notice of Settlement as required by Local Rule 160.

5 8. If settlement is not achieved informally, the parties shall submit confidential
6 settlement conference statements no later than **August 30, 2022**. Defendants shall
7 email their statement to skoorders@caed.uscourts.gov. Plaintiff shall mail his
8 statement, clearly captioned “Confidential Settlement Conference Statement,” to
9 United States District Court, Attn: Magistrate Judge Sheila K. Oberto, 2500 Tulare
10 Street, Room 1501, Fresno, CA 93721. Once the parties have submitted their
11 statements, they shall file a “Notice of Submission of Confidential Settlement
12 Conference Statement” with the court. The confidential settlement conference
13 statements themselves **should not be filed** with the court **nor served** on the opposing
14 party.

15 9. The confidential settlement conference statements should be no longer than 5 pages in
16 length and include:

- 17 a. A brief summary of the facts of the case;
- 18 b. A brief summary of the claims and defenses of the case, i.e., the statutory,
19 constitutional, or other grounds upon which the claims are founded;
- 20 c. A forthright discussion of the strengths and weaknesses of the case and an
21 evaluation of the likelihood of prevailing on the claims or defenses, from the
22 party’s perspective, and a description of the major issues in dispute;
- 23 d. An estimate of the party’s expected costs and time to be expended for further
24 discovery, pretrial matters, and trial;
- 25 e. A summary of past settlement discussions, including the informal settlement
26 negotiations required above; a statement of the party’s current position on
27 settlement, including the amount the party would offer and accept to settle (in
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specific dollar amounts); and a statement of the party’s expectations for settlement discussions;

f. A list of the individuals who will be attending the conference on the party’s behalf, including names and, if appropriate, titles; and,

g. If a party intends to discuss the settlement of any other actions or claims not raised in this suit, a brief description of each action or claim, including case number(s), as applicable.

10. The Clerk of the Court is directed to serve a copy of this order on the Litigation Office at DSH-Coalinga via facsimile at (559) 935-4308 or via email.

IT IS SO ORDERED.

Dated: May 20, 2022

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE