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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-ADA-EPG (PC)

ORDER VACATING TELEPHONIC PRE-SETTLEMENT CONFERENCE OF SEPTEMBER 6, 2022 AND SETTLEMENT CONFERENCE OF SEPTEMBER 13, 2022

ORDER RESETTING PRE-SETTLEMENT CONFERENCE FOR JANUARY 3, 2023 AND SETTLEMENT CONFERENCE FOR JANUARY 12, 2023, AND SETTLEMENT CONFERENCE 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.

On August 31, 2022, the Court learned from counsel for Defendant Corona that Plaintiff is unavailable for the telephonic pre-settlement conference set for September 6, 2022, as Plaintiff has been transported to an outpatient medical facility for emergency medical care and Plaintiff’s “conditions are still developing.” (Doc. 107.) It is not known when Plaintiff will be returned to Coalinga State Hospital. For those same reasons, it is unlikely Plaintiff will be available for the settlement conference scheduled for September 13, 2022. (*Id.*)

In light of Plaintiff’s unavailability, both proceedings will be vacated. The telephonic pre-settlement conference and settlement conference will be rescheduled as set forth below.

1 Based on the foregoing, **IT IS HEREBY ORDERED** that:

- 2 1. The writ issued on August 10, 2022 is VACATED;
- 3 2. The September 6, 2022, telephonic pre-settlement conference and the September 13,
4 2022, settlement conference are VACATED and will be RESET as follows:
 - 5 a. The Court RESETS a telephonic pre-settlement conference for **January 3, 2023,**
6 **at 1:30 p.m.**, before Magistrate Judge Sheila K. Oberto to discuss whether the
7 settlement conference will be productive. Defense counsel shall arrange for
8 Plaintiff's participation. The parties shall dial 1-888-557-8511 and enter access
9 code 6208204# for the telephonic conference.
 - 10 b. The Court RESETS a settlement conference for **January 12, 2023, at 10:00 a.m.**,
11 before the undersigned to 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
14 wkusamura@caed.uscourts.gov for the Zoom videoconference connection
15 information. The Court will issue a writ of *habeas corpus ad testificandum* to
16 allow for Plaintiff's participation, as appropriate.
- 17 3. Each party or a representative with full authority to negotiate and enter into a binding
18 settlement agreement shall participate in the conference. The failure of any counsel,
19 party, or authorized person subject to this order to participate in the conference may
20 result in the imposition of sanctions.
- 21 4. Consideration of settlement is a serious matter that requires thorough preparation prior
22 to the settlement conference. Participants in the conference must be prepared to
23 discuss the claims, defenses, and damages.
- 24 5. The parties shall engage in informal settlement negotiations as follows:
25 No later than **October 28, 2022**, Plaintiff shall submit to Defendant, by mail, a written
26 itemization of damages and a meaningful settlement demand, including a brief

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

1 explanation of why such settlement is appropriate, which shall not exceed 5 pages. No
2 later than **November 17, 2022**, Defendant shall respond, by mail or telephone, with an
3 acceptance of Plaintiff's offer or a meaningful counteroffer, including a brief
4 explanation of why such a settlement is appropriate. If settlement is achieved, the
5 parties shall file a Notice of Settlement as required by Local Rule 160.

6 6. If settlement is not achieved informally, the parties shall submit confidential
7 settlement conference statements no later than **December 19, 2022**. Defendant shall
8 email the statement to skoorders@caed.uscourts.gov. Plaintiff shall mail his
9 statement, clearly captioned "Confidential Settlement Conference Statement," to
10 United States District Court, Attn: Magistrate Judge Sheila K. Oberto, 2500 Tulare
11 Street, Room 1501, Fresno, CA 93721. Once the parties have submitted their
12 statements, they shall file a "Notice of Submission of Confidential Settlement
13 Conference Statement" with the court. The confidential settlement conference
14 statements themselves **should not be filed** with the court **nor served** on the opposing
15 party.

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

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

- f. An estimate of any restitution allocated to Plaintiff, or other financial obligation assigned to Plaintiff, that would affect the parties' settlement discussions;
- g. A list of the individuals who will be attending the conference on the party's behalf, including names and, if appropriate, titles; and,
- h. 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.

8. 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: September 1, 2022

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE