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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MARK LEE BARBOZA,
Plaintiff,
v.
SEAN STENGEL,
Defendant.

Case No. 1:18-cv-00580-LJO-EPG (PC)

ORDER SETTING SETTLEMENT
CONFERENCE

Mark Lee Barboza (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action filed pursuant to 42 U.S.C. § 1983. On June 10, 2019, defense counsel was ordered to contact the Court’s Alternate Dispute Resolution Coordinator to arrange for a settlement conference. (ECF No. 25). Defense counsel has contacted the Court’s ADR Coordinator and this case will be referred to Magistrate Judge Kendall J. Newman to conduct a settlement conference at the U. S. District Court, 501 I Street, Sacramento, California, 95814, in Courtroom #25 on September 19, 2019, at 1:30 p.m.¹ The Court will issue the necessary transportation order in due course.

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

1. This case is set for a settlement conference before Magistrate Judge Kendall J.

¹ While this date is outside the ninety-day deadline ordered by the Court (ECF No. 25), the Court hereby extends the deadline to allow the settlement conference to be held on this date.

1
2 Newman on September 19, 2019, at 1:30 p.m., at the U. S. District Court, 501 I Street,
3 Sacramento, California, 95814, in Courtroom #25.

- 4 2. A representative with full and unlimited authority to negotiate and enter into a binding
5 settlement on the defendants' behalf shall attend in person.²
- 6 3. Those in attendance must be prepared to discuss the claims, defenses, and damages at
7 issue in this case. The failure of any counsel, party or authorized person subject to this
8 order to appear in person may result in the imposition of sanctions. In addition, the
9 conference will not proceed and will be reset to another date.
- 10 4. The parties are directed to exchange non-confidential settlement statements seven days
11 prior to the settlement conference. These statements shall simultaneously be delivered
12 to the Court using the following email address: kjnorders@caed.uscourts.gov.
13 Plaintiff shall mail his non-confidential settlement statement Attn: Magistrate Judge
14 Kendall J. Newman, USDC CAED, 501 I Street, Suite 4-200, Sacramento, CA 95814,
15 so that it arrives at least seven (7) days prior to the settlement conference. The
16 envelope shall be marked "SETTLEMENT STATEMENT." The date and time of the
17 settlement conference shall be prominently indicated on the settlement statement. If a
18 party desires to share confidential information with the court, they may do so pursuant
19 to the provisions of Local Rule 270(d) and (e).
- 20 5. Judge Newman or another representative from the Court will be contacting the parties
21 either by telephone or in person, approximately two weeks prior to the settlement

22
23 ² While the exercise of its authority is subject to abuse of discretion review, "the district court has the
24 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
25 Cir. 2012) ("the district court has broad authority to compel participation in mandatory settlement conference[s]"). The term "full authority to settle" means that the individuals attending the mediation conference must be authorized
26 to fully explore settlement options and to agree at that time to any settlement terms acceptable to the parties. G. Heileman Brewing Co., Inc. v. Joseph Oat Corp., 871 F.2d 648, 653 (7th Cir. 1989), cited with approval in Official
27 Airline Guides, Inc. v. Goss, 6 F.3d 1385, 1396 (9th Cir. 1993). The individual with full authority to settle must also
28 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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conference, to ascertain each party's expectations of the settlement conference.

IT IS SO ORDERED.

Dated: June 12, 2019

/s/ Eric P. Groj
UNITED STATES MAGISTRATE JUDGE