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**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

COLIN M. RANDOLPH,
Plaintiff,
v.
SANDOVAL, *et al.*,
Defendants.

Case No. 1:18-cv-00968-NONE-BAM (PC)
ORDER LIFTING STAY OF PROCEEDINGS
ORDER VACATING NOVEMBER 3, 2020
SETTLEMENT CONFERENCE
(ECF No. 27)
ORDER DIRECTING CLERK OF COURT TO
ISSUE DISCOVERY AND SCHEDULING
ORDER

Plaintiff Colin M. Randolph (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds against Defendants Benevides and Carrillo for excessive force in violation of the Eighth Amendment and against Defendants Sandoval, Speidell, and Benavides for retaliation in violation of the First Amendment.

On September 9, 2020, the Court identified this case as an appropriate case for the post-screening ADR (Alternative Dispute Resolution) project, and stayed the action to allow the parties an opportunity to settle their dispute before the discovery process begins. (ECF No. 27.) The Court’s order granted Defendants time to investigate and determine whether to opt out of the post-screening ADR project.

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1 On October 13, 2020, Defendants filed a request to opt out and vacate settlement
2 conference. (ECF No. 28.) Defendants state that after fully investigating Plaintiff's allegations,
3 defense counsel believes to Plaintiff's lawsuit is barred by his failure to comply with the PLRA's
4 exhaustion requirement. Further, after conferring with Plaintiff by telephone on October 12,
5 2020, defense counsel believes that Plaintiff's demand and any amount Defendants would
6 consider for settlement are currently too far from each other for a settlement conference to be
7 fruitful at this time. (Id.)

8 After review, the Court finds good cause to grant Defendants' request. Therefore, the stay
9 is lifted, and the November 3, 2020, settlement is vacated. This case is now ready to proceed.

10 If the parties wish to set a settlement conference with the Court at a later date, they should
11 so inform the Court. However, the parties are also reminded that they are not precluded from
12 negotiating a settlement without judicial assistance.

13 Accordingly, IT IS HEREBY ORDERED that:

- 14 1. The stay of this action, (ECF No. 27), is LIFTED;
- 15 2. The November 3, 2020 settlement conference is VACATED;
- 16 3. The Clerk of the Court is DIRECTED to issue a discovery and scheduling order;
17 and
- 18 4. The parties may proceed with discovery pursuant to the discovery and scheduling
19 order to be issued by separate order.

20
21 IT IS SO ORDERED.

22 Dated: October 13, 2020

23 /s/ Barbara A. McAuliffe
24 UNITED STATES MAGISTRATE JUDGE