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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

EARL DAVIS SR.,
Plaintiff,
v.
E. CLOAK, S. REED, and R. VINCENT,
Defendants.

No. 1:22-cv-01632-JLT-HBK (PC)
ORDER GRANTING PLAINTIFF’S MOTION
FOR MISCELLANEOUS RELIEF
(Doc. No. 71)
ORDER DISCHARGING SHOW CASUE
ORDER AND RESETTING SETTLEMENT
CONFERENCE
Hearing: **Settlement Conference**
Date: **July 9, 2024**
Time: **9:30 a.m.**
Judge: **Stanley A. Boone**
Location: via Zoom Videoconference

Plaintiff is proceeding pro se and *in forma pauperis* in this civil rights action filed pursuant to 42 U.S.C. § 1983. This case was previously scheduled for a settlement conference on April 2, 2024, but the settlement conference was cancelled after Plaintiff failed to appear. (*See* Doc. Nos. 68, 69). On April 3, 2024, the Court issued an Order to Show Cause (“OTSC”) why the Court should not impose sanctions for Plaintiff’s willful failure to appear. (Doc. No. 70). On April 25, 2024, Plaintiff filed a Motion requesting the settlement conference be rescheduled, indicating that he is in a residential treatment facility and was in the hospital on April 2, 2024 and unable to attend the settlement conference. (Doc. No. 71). On May 2, 2024, Plaintiff filed a

1 response to the Court's OTSC, elaborating on the circumstances preventing him from attending
2 the April 2, 2024 settlement conference, including losing his job, struggles with alcohol,
3 homelessness, and health problems. (See Doc. No. 72). In the interests of justice,
4 notwithstanding Plaintiff's failure to appear at the April 2, 2024 settlement conference, the Court
5 will grant Plaintiff's Motion and reset the case for a settlement conference. However, if Plaintiff
6 again fails to appear, the Court will recommend this case be dismissed for failure to prosecute and
7 comply with court orders.

8 This case will be referred again to Magistrate Judge Stanley A. Boone to conduct a **video**
9 **settlement conference, via the Zoom videoconferencing application**, on **July 9, 2024, at 9:30**
10 **a.m.** Counsel for Defendant shall contact Courtroom Deputy Jan Nguyen at (559) 499-5672 or
11 jnguyen@caed.uscourts.gov for the video and dial-in information, including any necessary
12 passcodes, for all parties.

13 The parties have already submitted their confidential settlement conference statements,
14 so no further written submissions are necessary.

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

19 Because Defendant elected not to opt out of the settlement conference, Defendant shall
20 be prepared to negotiate the merits of the case and offer more than a waiver of costs as a
21 reasonable compromise to settle the case. The parties are also informed that an offer of
22 dismissal in exchange for a waiver of costs is not considered good faith settlement negotiations.

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


- 24 1. The Court discharges its Show Cause Order (Doc. No. 70).
- 25 2. Plaintiff's Motion to Place ADR Hearing Back on Calendar (Doc. No. 71) is
26 GRANTED to the extent set forth herein.
- 27 3. This case is set for a **video** settlement conference, **via the Zoom videoconferencing**
28 **application**, before Magistrate Judge Stanley A. Boone on **July 9, 2024 at 9:30**

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a.m.

- 4. A representative with full and unlimited authority to negotiate and enter into a binding settlement shall attend **via the Zoom videoconferencing application.**¹
- 5. 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.
- 6. If a settlement is reached at any point during the stay of this action, the parties shall file a Notice of Settlement in accordance with Local Rule 160.
- 7. The parties remain obligated to keep the Court informed of their current addresses at all times during the stay and while the action is pending. Any change of address must be reported promptly to the Court in a separate document captioned for this case and entitled "Notice of Change of Address." See Local Rule 182(f).
- 8. **A failure to follow these procedures may result in the imposition of sanctions by the court.**
- 9. **If Plaintiff fails to appear at the scheduled settlement conference, the Court will recommend this case be dismissed for failure to prosecute and comply with court orders.**

Dated: May 9, 2024


 HELENA M. BARCH-KUCHTA
 UNITED STATES MAGISTRATE JUDGE

¹ In light of the coronavirus (COVID-19) outbreak and the evolving coronavirus protocols, the Court may issue an order at a later date requiring the parties to appear in person.

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cc : Jan Nguyen, Courtroom Deputy for Judge Boone