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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DANNY JAMES COHEA,

No. 2:00-cv-2799-GEB-EFB P

Plaintiff,

v.

ORDER SETTING SETTLEMENT
CONFERENCE

CHERYL K. PLILER, et al.,

Defendants.

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. The Court has determined that this case will benefit from a settlement conference. Therefore, this case will be referred to Magistrate Judge Barbara A. McAuliffe to conduct a settlement conference at the U. S. District Court, 2500 Tulare Street, Fresno, California 93721 in Courtroom #8 on May 18, 2015 at 10:00 a.m.

A separate order and writ of habeas corpus ad testificandum will issue concurrently with this order.

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

1. A settlement conference has been set for May 18, 2015 at 10:00 a.m. in Courtroom #8 before Magistrate Judge Barbara A. McAuliffe at the U. S. District Court, 2500 Tulare Street, Fresno, California 93721.

1 2. Defendants' lead counsel and a person with full and unlimited authority to negotiate
2 and enter into a binding settlement on defendants' behalf shall attend in person¹.
3 3. Those in attendance must be prepared to discuss the claims, defenses and damages.
4 The failure of any counsel, party or authorized person subject to this order to appear in
5 person may result in the imposition of sanctions. In addition, the conference will not
6 proceed and will be reset to another date.
7 4. Parties are directed to submit confidential settlement statements no later than May 11,
8 2015 to bamorders@caed.uscourts.gov. Plaintiff shall mail his confidential settlement
9 statement to Magistrate Judge Barbara A. McAuliffe, USDC CAED, 2500 Tulare
10 Street, Room 1501, Fresno, California 93721 so it arrives no later than May 11, 2015.
11 The envelope shall be marked "Settlement Statement." If a party desires to share
12 additional confidential information with the Court, they may do so pursuant to the
13 provisions of Local Rule 270(d) and (e). Parties are also directed to file a "Notice of
14 Submission of Confidential Settlement Statement" (See L.R. 270(d)).

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16 Settlement statements **should not be filed** with the Clerk of the court **nor served on**
17 **any other party**. Settlement statements shall be clearly marked "confidential" with
18 the date and time of the settlement conference indicated prominently thereon.

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21 ¹ While the exercise of its authority is subject to abuse of discretion review, "the district court has the
22 authority to order parties, including the federal government, to participate in mandatory settlement
23 conferences...." United States v. United States District Court for the Northern Mariana Islands, 694 F.3d 1051,
24 1053, 1057, 1059 (9th Cir. 2012)(“the district court has broad authority to compel participation in mandatory
25 settlement conference[s].”). The term “full authority to settle” means that the individuals attending the
26 mediation conference must be authorized to fully explore settlement options and to agree at that time to any
27 settlement terms acceptable to the parties. G. Heileman Brewing Co., Inc. v. Joseph Oat Corp., 871 F.2d 648,
28 653 (7th Cir. 1989), cited with approval in Official Airline Guides, Inc. v. Goss, 6 F.3d 1385, 1396 (9th Cir. 1993).
The individual with full authority to settle must also have “unfettered discretion and authority” to change the
settlement position of the party, if appropriate. Pittman 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).

1 The confidential settlement statement shall be **no longer than five pages** in length,
2 typed or neatly printed, and include the following:

3

4 a. A brief statement of the facts of the case.

5 b. A brief statement of the claims and defenses, i.e., statutory or other grounds upon
6 which the claims are founded; a forthright evaluation of the parties' likelihood of
7 prevailing on the claims and defenses; and a description of the major issues in
8 dispute.

9 c. A summary of the proceedings to date.

10 d. An estimate of the cost and time to be expended for further discovery, pretrial, and
11 trial.

12 e. The relief sought.

13 f. The party's position on settlement, including present demands and offers and a
14 history of past settlement discussions, offers, and demands.

15 g. A brief statement of each party's expectations and goals for the settlement
16 conference.

17 DATED: May 5, 2015.



18 EDMUND F. BRENNAN
19 UNITED STATES MAGISTRATE JUDGE