

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RAYMOND PAUL NELSON,
Plaintiff,
v.
D.L. RUNNELS, et al.,
Defendants.

No. 2:06-cv-1289 LKK KJN P

ORDER SETTING
SETTLEMENT CONFERENCE

Plaintiff is a former state prisoner, proceeding through counsel in this civil rights action filed pursuant to 42 U.S.C. § 1983. The parties, in their Further Joint Status Report, requested the court appoint a magistrate judge for purposes of a settlement conference. As both parties have agreed to participate in a settlement conference before the presiding magistrate judge, this case will be set for a settlement conference on February 25, 2014, at 9:00 a.m., at the U. S. District Court, 501 I Street, Sacramento, California 95814, in Courtroom #25, before the undersigned magistrate judge.

The parties will be required to file a signed Waiver of Disqualification (included below), no later than December 5, 2013.

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

1. This case is set for a settlement conference before the undersigned magistrate judge on Tuesday, February 25, 2014, at 9:00 a.m., at the U.S. District Court, 501 I Street,

1 Sacramento, California 95814, in Courtroom #25 (8th floor).

2 2. The parties are required to file a signed waiver of Disqualification, no later than
3 December 5, 2013.


4 3. A representative with full and unlimited authority to negotiate and enter into a
5 binding settlement on defendants' behalf shall attend in person.¹

6 4. Those in attendance must be prepared to discuss the claims, defenses and
7 damages. The failure of any counsel, party or authorized person subject to this order to appear in
8 person may result in the imposition of sanctions. In addition, the conference will not proceed and
9 will be reset to another date.

10 5. The parties are directed to exchange non-confidential settlement statements
11 seven days prior to this settlement conference. These statements shall simultaneously be
12 delivered to the court using the following email address: kjnorders@caed.uscourts.gov. If a party
13 desires to share additional confidential information with the court, they may do so pursuant to the
14 provisions of Local Rule 270(d) and (e).

15 SO ORDERED.

16 Dated: November 20, 2013

17 
18 KENDALL J. NEWMAN
19 UNITED STATES MAGISTRATE JUDGE

20 /nels1289.med

21 _____
22 1 While the exercise of its authority is subject to abuse of discretion review, “the district
23 court has the authority to order parties, including the federal government, to participate in
24 mandatory settlement conferences... .” United States v. United States District Court for the
25 Northern Mariana Islands, 694 F.3d 1051, 1053, 1057, 1059 (9th Cir. 2012)(“the district court has
26 broad authority to compel participation in mandatory settlement conference[s].”). The term “full
27 authority to settle” means that the individuals attending the mediation conference must be
28 authorized 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 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. 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).

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RAYMOND PAUL NELSON,
Plaintiff,
v.
D.L. RUNNELS, et al.,
Defendants.

No. 2:06-cv-1289 LKK KJN P

WAIVER OF DISQUALIFICATION

Under Local Rule 270(b) of the Eastern District of California, the parties to the herein action affirmatively request that Magistrate Judge Kendall J. Newman participate in the settlement conference scheduled for February 25, 2014. Should the parties consent to trial of the case before the assigned Magistrate Judge, they waive any claim of disqualification to the assigned Magistrate Judge trying the case thereafter.

By: Attorney for Plaintiff

Dated:_____

By: Attorney for Defendants

Dated:_____