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

STANLEY SIMS,

Plaintiff,

No. CIV S-07-898 KJM EFB P

vs.

VEAL, et al.,

Defendants.

ORDER

Plaintiff is a former state prisoner proceeding through counsel with an action under 42 U.S.C. § 1983. The court has determined that this case would benefit from a settlement conference. Therefore, this case will be referred to Magistrate Judge Craig M. Kellison to conduct a settlement conference at the U. S. District Court, 501 I Street, Sacramento, California 95814 in Courtroom #2 on February 6, 2013 at 2:00 p.m.

Accordingly, **IT IS ORDERED** that:

1. This case is set for a settlement conference before Magistrate Judge Craig M. Kellison on February 6, 2013, at 2:00 p.m. at the U. S. District Court, 501 I Street, Sacramento, California 95814 in Courtroom #2.

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1           2.       Defendants’ lead counsel and a person with full and unlimited authority to  
2                   negotiate and enter into a binding settlement on defendants’ behalf shall attend in  
3                   person.<sup>1</sup>

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

8           4.       Each party shall provide a confidential settlement conference statement to Sujean  
9                   Park, via e-mail at [spark@caed.uscourts.gov](mailto:spark@caed.uscourts.gov), no later than January 31, 2013 and  
10                  file a Notice of Submission of Confidential Settlement Conference Statement (See  
11                  L.R. 270(d)).

12 Settlement statements **should not be filed** with the Clerk of the court **nor served on any other**  
13 **party**. Settlement statements shall be clearly marked “confidential” with the date and time of  
14 the settlement conference indicated prominently thereon.

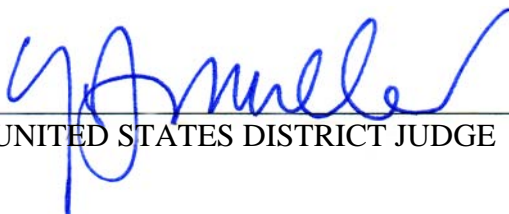
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18           <sup>1</sup> While the exercise of its authority is subject to abuse of discretion review, “the district  
19 court has the authority to order parties, including the federal government, to participate in  
20 mandatory settlement conferences... .” United States v. United States District Court for the  
21 Northern Mariana Islands, 694 F.3d 1051, 1053, 1057, 1059 (9<sup>th</sup> Cir. 2012)(“the district court has  
22 broad authority to compel participation in mandatory settlement conference[s].”). The term “full  
23 authority to settle” means that the individuals attending the settlement conference must be  
24 authorized to fully explore settlement options and to agree at that time to any settlement terms  
25 acceptable to the parties. G. Heileman Brewing Co., Inc. v. Joseph Oat Corp., 871 F.2d 648, 653  
26 (7<sup>th</sup> Cir. 1989), cited with approval in Official Airline Guides, Inc. v. Goss, 6 F. 3d 1385, 1396  
(9<sup>th</sup> 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 (8<sup>th</sup> Cir. 2001).

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

- 3 a. A brief statement of the facts of the case.
- 4 b. A brief statement of the claims and defenses, i.e., statutory or other grounds upon  
5 which the claims are founded; a forthright evaluation of the parties' likelihood of  
6 prevailing on the claims and defenses; and a description of the major issues in  
7 dispute.
- 8 c. A summary of the proceedings to date.
- 9 d. An estimate of the cost and time to be expended for further discovery, pretrial,  
10 and trial.
- 11 e. The relief sought.
- 12 f. The party's position on settlement, including present demands and offers and a  
13 history of past settlement discussions, offers, and demands.
- 14 g. A brief statement of each party's expectations and goals for the settlement  
15 conference.

16 DATED: January 11, 2013.

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19 UNITED STATES DISTRICT JUDGE  
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