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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANTHONY GRAHAM,  
Plaintiff,  
v.  
DR. M. JAFFE, et al.,  
Defendants.

No. 2:08-cv-2533 TLN KJN P

ORDER

Plaintiff is a state prisoner proceeding without counsel. Both parties have waived disqualification of the undersigned to serve as settlement judge. (ECF Nos. 93, 94.) A separate order and writ of habeas corpus ad testificandum will issue to provide for plaintiff's attendance by videoconference at the settlement conference. Accordingly, IT IS HEREBY ORDERED that:

1. This case is set for a settlement conference before the undersigned on Tuesday, February 18, 2014, at 9:00 a.m., at the United States District Court, Eastern District of California, 501 I Street, Sacramento, California 95814, in Courtroom No. 25 (8th Floor).
2. Defendants' lead counsel and a person with full and unlimited authority to negotiate and enter into a binding settlement on defendant's behalf shall attend the settlement conference in person.<sup>1</sup>

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<sup>1</sup> The term "full authority to settle" means that the individuals attending the settlement conference must be authorized to fully explore settlement options and to agree at that time to any

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

5           4. The parties are directed to exchange non-confidential settlement conference statements  
6 seven days prior to this settlement conference. Concurrently, counsel for defendants shall deliver  
7 their statement to the Court using the following email address: [kjnorders@caed.uscourts.gov](mailto:kjnorders@caed.uscourts.gov).  
8 Plaintiff shall, on or before Friday, February 7, 2013, send his statement to the court by mail, and  
9 indicate on the envelope and on the face of the statement that it is a confidential communication  
10 to the undersigned. If a party desires to share additional confidential information with the Court,  
11 they may do so pursuant to the provisions of Local Rule 270(d) and (e).<sup>2</sup>

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12 settlement terms acceptable to the parties. G. Heileman Brewing Co., Inc. v. Joseph Oat Corp.,  
13 871 F.2d 648, 653 (7th Cir. 1989), cited with approval in Official Airline Guides, Inc. v. Goss, 6  
14 F. 3d 1385, 1396 (9th Cir. 1993). The individual with full authority to settle must also have  
15 “unfettered discretion and authority” to change the settlement position of the party, if appropriate.  
16 Pitman v. Brinker Int’l, Inc., 216 F.R.D. 481, 485-86 (D. Ariz. 2003), amended on recon. in part,  
17 Pitman v. Brinker Int’l, Inc., 2003 WL 23353478 (D. Ariz. 2003). The purpose behind requiring  
18 the attendance of a person with full settlement authority is that the parties’ view of the case may  
19 be altered during the face-to-face conference. Pitman, 216 F.R.D. at 486. An authorization to  
20 settle for a limited dollar amount or sum certain can be found not to comply with the requirement  
21 of full authority to settle. Nick v. Morgan’s Foods, Inc., 270 F. 3d 590, 596-97 (8th Cir. 2001).

22 <sup>2</sup> Local Rule 270(d) and (e) provides:

23           (d) Confidentiality of Settlement Conference Statements. Settlement conference  
24 statements shall not be disclosed to the Judge or Magistrate Judge assigned to try the action  
25 unless the parties have agreed, and the Judge or Magistrate Judge has approved, that such Judge  
26 or Magistrate Judge will preside at the settlement conference. Settlement conference statements  
27 may be e-mailed in .pdf format directly to the courtroom deputy clerk of the Judge or Magistrate  
28 Judge before whom the settlement conference is to be held or may be submitted in paper directly  
to chambers. If the statement is confidential, it must be clearly captioned to reveal its confidential  
character. If a party is submitting a confidential settlement conference statement, the party must  
file a one page document entitled "Notice of Submission of Confidential Settlement Conference  
Statement." That filing, if done electronically, will thereby effect service of this notice on all  
other parties. If the notice is filed conventionally, the filing party must serve all other parties. The  
parties may agree, or not, to serve each other with the settlement statements.

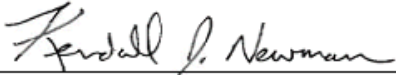
          (e) Return of Settlement Conference Statements. At the completion of the settlement  
conference, the Judge or Magistrate Judge before whom the settlement conference is held shall

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IT IS SO ORDERED.

Dated: December 12, 2013

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KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE

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return the statements to the respective parties who submitted them or otherwise dispose of them.  
Settlement conference statements shall not be filed or made a part of the Court's records.