

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANTHONY VINCENT PASSER,  
Plaintiff,  
v.  
DR. STEEVERS, et al.,  
Defendants

No. 2:08-cv-2792 MCE KJN P

## ORDER SETTING SETTLEMENT CONFERENCE

17 Plaintiff is proceeding through counsel in this civil rights action pursuant to 42 U.S.C. §  
18 1983. The court has determined that this case will benefit from a settlement conference.  
19 Therefore, this case will be set for a settlement conference with Magistrate Judge Kendall J.  
20 Newman on January 14, 2015, at 9:30 a.m., at the U. S. District Court, 501 I Street, Sacramento,  
21 California 95814 in Courtroom #25.

22 Parties will be required to file a signed Waiver of Disqualification (attached below), no  
23 later than January 5, 2015.

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

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

27 1. This case is set for a settlement conference before Magistrate Judge Kendall J.

1 Newman on January 14, 2015, at 9:30 a.m., at the U. S. District Court, 501 I Street,  
2 Sacramento, California 95814 in Courtroom #25. The order supersedes the court's  
3 previous order, filed September 25, 2014 (ECF No. 112), which required the parties to  
4 schedule a settlement conference within two months of the completion of discovery.

5 2. Parties are required to file a signed Waiver of Disqualification, no later than January 5,  
6 2015.

7 3. A representative with full and unlimited authority to negotiate and enter into a binding  
8 settlement shall attend in person.<sup>1</sup>

9 4. Those in attendance must be prepared to discuss the claims, defenses and damages.

10 The failure of any counsel, party or authorized person subject to this order to appear in  
11 person may result in the imposition of sanctions. In addition, the conference will not  
12 proceed and will be reset to another date.

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19 <sup>1</sup> While the exercise of its authority is subject to abuse of discretion review, "the district court has the  
20 authority to order parties, including the federal government, to participate in mandatory settlement  
21 conferences . . . ." United States v. United States District Court for the Northern Mariana Islands, 694 F.3d  
22 1051, 1053, 1057, 1059 (9th Cir. 2012) ("the district court has broad authority to compel participation in  
23 mandatory settlement conference[s]."). The term "full authority to settle" means that the individuals  
24 attending the mediation conference must be authorized to fully explore settlement options and to agree at  
25 that time to any settlement terms acceptable to the parties. G. Heileman Brewing Co., Inc. v. Joseph Oat  
26 Corp., 871 F.2d 648, 653 (7th Cir. 1989), cited with approval in Official Airline Guides, Inc. v. Goss, 6  
27 F.3d 1385, 1396 (9th Cir. 1993). The individual with full authority to settle must also have "unfettered  
28 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       5. The parties are directed to exchange non-confidential settlement statements seven days  
2       prior to this settlement conference. These statements shall simultaneously be  
3       delivered to the court using the following email address:  
4       [kjnorders@caed.uscourts.gov](mailto:kjnorders@caed.uscourts.gov). A party that desires to share additional confidential  
5       information with the court may do so pursuant to the provisions of Local Rule 270(d)  
6       and (e).

7       Dated: November 24, 2014

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9       pass2792.med

  
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KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE

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## WAIVER OF DISQUALIFICATION

Pursuant to Eastern District of California Local Rule 270(b), the parties herein affirmatively request that Magistrate Judge Kendall J. Newman participate in the settlement conference scheduled for January 14, 2015, and waive any claim of disqualification to Judge Newman acting as Magistrate Judge in the action thereafter.

By: \_\_\_\_\_  
Attorney for plaintiff

Dated:

By: \_\_\_\_\_  
Attorney for defendants

Dated: