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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

HOWARD SCOTT,

Plaintiff,

v.

M. McDONALD, et al.,

Defendants.

No. 2:09-cv-0851-MCE-EFB P

ORDER SETTING SETTLEMENT
CONFERENCE

Plaintiff is a state prisoner proceeding through counsel in an action brought under 42 U.S.C. § 1983. The court has determined that this case would benefit from an additional settlement conference. Therefore, this case will be referred to Magistrate Judge Kendall J. Newman to conduct a settlement conference at the U. S. District Court, 501 I Street, Sacramento, California 95814 in Courtroom #25 on April 7, 2015 at 9:00 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. This case is set for a settlement conference before Magistrate Judge Kendall J. Newman on April 7, 2015 at 9:00 a.m. at the U. S. District Court, 501 I Street, Sacramento, California 95814 in Courtroom #25.

- 1 2. A representative with full and unlimited authority to negotiate and enter into a binding
2 settlement on the defendants' behalf shall attend in person.¹
- 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. The parties are directed to exchange non-confidential settlement statements seven days
8 prior to the settlement conference. These statements shall simultaneously be delivered
9 to the court using the following email address: kjnorders@caed.uscourts.gov. If a
10 party desires to share additional confidential information with the court, they may do
11 so pursuant to the provisions of Local Rule 270(d) and (e).

12 DATED: January 28, 2015.

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