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

DAVID JOHN BERG,

Plaintiff,

No. 2:09-cv-1492 MCE KJN P

vs.

KAZALEC, et al.,

Defendants.

ORDER

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Plaintiff is a state prisoner proceeding through counsel with an action under 42 U.S.C. § 1983. This case has been selected for the court’s Prisoner Alternative Dispute Resolution (“ADR”) Program, and is hereby 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 No. 1, on February 2, 2012 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:

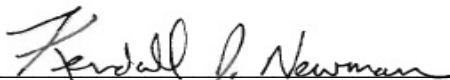
- 1. This case is set for a settlement conference before Magistrate Judge Craig M. Kellison on February 2, 2012, at 9:00 a.m., at the U. S. District Court, 501 I Street, Sacramento, California 95814, in Courtroom No. 1.

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 person.<sup>1</sup>

3           3. Those in attendance must be prepared to discuss the claims, defenses and  
4 damages. 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 proceed  
6 and will be reset to another date.

7           4. The parties shall each submit settlement statements to Judge Kellison seven  
8 days prior to the settlement conference.

9 DATED: November 29, 2011

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12 KENDALL J. NEWMAN  
13 UNITED STATES MAGISTRATE JUDGE

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21 <sup>1</sup> The term "full authority to settle" means that the individuals attending the mediation  
22 conference must be authorized to fully explore settlement options and to agree at that time to any  
23 settlement terms acceptable to the parties. G. Heileman Brewing Co., Inc. v. Joseph Oat Corp.,  
24 871 F.2d 648, 653 (7th Cir. 1989), cited with approval in Official Airline Guides, Inc. v. Goss, 6  
25 F. 3d 1385, 1396 (9th Cir. 1993). The individual with full authority to settle must also have  
26 "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 of 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).