

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CHARLES CORNELIUS JAMES,
Plaintiff,
v.
DEEPAK MEHTA, et al.,
Defendants.

No. 2:10-cv-1171 LKK DAD P

ORDER SETTING SETTLEMENT
CONFERENCE

Plaintiff is a state prisoner proceeding through counsel in a civil rights action pursuant to 42 U.S.C. § 1983. The parties have requested that this case be referred to the Court’s Prisoner Settlement Program for mediation with Magistrate Judge Kellison. Good cause appearing, this case will be set for a settlement conference before Magistrate Judge Craig M. Kellison at the U.S. District Court, 501 I Street, Sacramento, California 95814 in Courtroom #1 on June 19, 2014 at 10:00 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 June 19, 2014 at 10:00 a.m. at the U. S. District Court, 501 I Street, Sacramento, California 95814 in Courtroom #1.

- 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. Each party shall provide a confidential settlement statement to Sujean Park, ADR
8 Division, 501 I Street, Suite 4-200, Sacramento, California 95814, or by email to
9 spark@caed.uscourts.gov so they arrive no later than June 5, 2014 and file a Notice of
10 Submission of Confidential Settlement Statement (See L.R. 270(d)). Settlement
11 statements **should not be filed** with the Clerk of the court **nor served on any other**
12 **party**. Settlement statements shall be clearly marked "confidential" with the date and
13 time of the settlement conference indicated prominently thereon. The confidential
14 settlement statement shall be **no longer than five pages** in length, typed or neatly
15 printed, and include the following:
- 16 a. A brief statement of the facts of the case.
- 17 b. A brief statement of the claims and defenses, i.e., statutory or other grounds upon

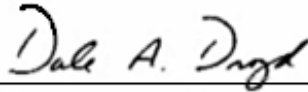
19 ¹ While the exercise of its authority is subject to abuse of discretion review, "the district court has
20 the authority to order parties, including the federal government, to participate in mandatory
21 settlement conferences. . . ." United States v. United States District Court for the Northern
22 Mariana Islands, 694 F.3d 1051, 1053, 1057, 1059 (9th Cir. 2012)("the district court has broad
23 authority to compel participation in mandatory settlement conference[s]"). The term "full
24 authority to settle" means that the individuals attending the mediation conference must be
25 authorized to fully explore settlement options and to agree at that time to any settlement terms
26 acceptable to the parties. G. Heileman Brewing Co., Inc. v. Joseph Oat Corp., 871 F.2d 648, 653
27 (7th Cir. 1989), cited with approval in Official Airline Guides, Inc. v. Goss, 6 F.3d 1385, 1396
28 (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).

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

which the claims are founded; a forthright evaluation of the parties' likelihood of prevailing on the claims and defenses; and a description of the major issues in dispute.

- c. A summary of the proceedings to date.
- d. An estimate of the cost and time to be expended for further discovery, pretrial, and trial.
- e. The relief sought.
- f. The party's position on settlement, including present demands and offers and a history of past settlement discussions, offers, and demands.
- g. A brief statement of each party's expectations and goals for the settlement conference.

Dated: May 12, 2014



DALE A. DROZD
UNITED STATES MAGISTRATE JUDGE

DAD:9
jame1171.sc