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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

WILBER ATCHERLEY,  
  
                                Plaintiff,  
  
          v.  
  
J. HANNY, et al.,  
  
                                Defendants.

No. 2:13-cv-0576 KJM AC P

**ORDER SETTING SETTLEMENT  
CONFERENCE**

Plaintiff is a state prisoner proceeding pro se with an action for violation of his civil rights pursuant to 42 U.S.C. § 1983. The court has determined that this case will benefit from a settlement conference. Therefore, this case will be referred to Magistrate Judge Stanley A. Boone and Magistrate Judge Barbara A. McAuliffe, to conduct a settlement conference on January 13, 2017, at Kern Valley State Prison, 3000 West Cecil Avenue, Delano, California 93216.

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

1. **This case is set for a settlement conference on January 13, 2017**, at Kern Valley State Prison, 3000 West Cecil Avenue, Delano, California 93216. The specific magistrate judge and the start time for the settlement conference will be determined at a future date.
2. A representative with full and unlimited authority to negotiate and enter into a binding

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2 settlement on the defendants' behalf shall attend in person.<sup>1</sup>

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 the following email  
8 address: [spark@caed.uscourts.gov](mailto:spark@caed.uscourts.gov). Plaintiff shall mail his confidential settlement  
9 statement to Sujean Park, ADR & Pro Bono Program Director, USDC CAED, 501 I  
10 Street, Suite 4-200, Sacramento, California 95814. The envelope shall be marked  
11 "Confidential Settlement Statement." **Settlement statements shall arrive no later**  
12 **than January 6, 2017.** Parties shall also file a Notice of Submission of Confidential  
13 Settlement Conference Statement, see Local Rule 270(d).

14 Settlement statements **should not be filed** with the Clerk of the Court **nor served on**  
15 **any other party**. Settlement statements shall be clearly marked "confidential" with  
16 the date and time of the settlement conference indicated prominently thereon.

17 The confidential settlement statement shall be **no longer than five pages** in length,  
18 typed or neatly printed, and include the following:

- 19 a. A brief statement of the facts of the case.  
20 b. A brief statement of the claims and defenses, i.e., statutory or other grounds  
21 upon which the claims are founded; a forthright evaluation of the parties'

22  
23 <sup>1</sup> While the exercise of its authority is subject to abuse of discretion review, "the district court has the authority to  
24 order parties, including the federal government, to participate in mandatory settlement conferences..." United States  
25 v. United States District Court for the Northern Mariana Islands, 694 F.3d 1051, 1053, 1057, 1059 (9<sup>th</sup> Cir.  
26 2012)("the district court has broad authority to compel participation in mandatory settlement conference[s]"). The  
27 term "full authority to settle" means that the individuals attending the mediation conference must be authorized to  
28 fully explore settlement options and to agree at that time to any settlement terms acceptable to the parties. G.  
Heileman Brewing Co., Inc. v. Joseph Oat Corp., 871 F.2d 648, 653 (7<sup>th</sup> Cir. 1989), cited with approval in Official  
Airline Guides, Inc. v. Goss, 6 F.3d 1385, 1396 (9<sup>th</sup> 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 (8<sup>th</sup> Cir. 2001).

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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.

5. The Clerk of the Court is directed to serve a copy of this order on the Litigation Coordinator at Kern Valley State Prison via facsimile at (661) 720-4949.

IT IS SO ORDERED.

DATED: October 23, 2016

  
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ALLISON CLAIRE  
UNITED STATES MAGISTRATE JUDGE