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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

KORDY RICE,  
  
                                                Plaintiff,  
  
                                                v.  
  
D. BAUER, et al.,  
  
                                                Defendants.

No. 2:15-cv-0236-JAM-EFB P

ORDER SETTING SETTLEMENT  
CONFERENCE

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. §1983. On April 16, 2018 the parties were ordered to inform this court’s ADR division if they believed a settlement conference would be beneficial. ECF No. 84. After a review of the responses, it has been determined that this case will benefit from a 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 September 12, 2018 at 9:00 a.m.

Plaintiff shall have the option to appear at the settlement conference in person or by video conference. In the event video conferencing capabilities are unavailable, plaintiff may appear by telephone. Plaintiff will be required to return the attached form advising the court how he would like to appear at the settlement conference so that the court may issue the appropriate orders. A

1  
2 separate order and writ of habeas corpus ad testificandum will issue once it has been determined  
3 how plaintiff will appear.

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


- 5 1. This case is set for a settlement conference before Magistrate Judge Kendall J.  
6 Newman on September 12, 2018 at 9:00 a.m. at the U. S. District Court, 501 I Street,  
7 Sacramento, California 95814 in Courtroom #25.
- 8 2. A representative with full and unlimited authority to negotiate and enter into a binding  
9 settlement on the defendants' behalf shall attend in person.<sup>1</sup>
- 10 3. Those in attendance must be prepared to discuss the claims, defenses and damages.  
11 The failure of any counsel, party or authorized person subject to this order to appear in  
12 person may result in the imposition of sanctions. In addition, the conference will not  
13 proceed and will be reset to another date.
- 14 4. Plaintiff shall have the choice to attend the settlement conference in person or by  
15 video. Within ten days after the filing date of this order, plaintiff shall return the  
16 attached form notifying the court whether he would like to attend the settlement  
17 conference in person or by video. If plaintiff chooses to appear by video and video  
18 conferencing is not available, he may appear by telephone. If plaintiff does not return  
19 the form telling the court how he would like to attend the conference, the court will  
20 issue orders for plaintiff to appear by video.

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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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5. The parties are directed to exchange non-confidential settlement statements seven days prior to the settlement conference. These statements shall simultaneously be delivered to the court using the following email address: [kjnorders@caed.uscourts.gov](mailto:kjnorders@caed.uscourts.gov). Plaintiff shall mail his non-confidential settlement statement Attn: Magistrate Judge Kendall J. Newman, USDC CAED, 501 I Street, Suite 4-200, Sacramento, CA 95814 so that it arrives at least seven (7) days prior to the settlement conference. The envelope shall be marked "SETTLEMENT STATEMENT." The date and time of the settlement conference shall be prominently indicated on the settlement statement. If a party desires to share additional confidential information with the court, they may do so pursuant to the provisions of Local Rule 270(d) and (e).

DATED: May 31, 2018.

  
EDMUND F. BRENNAN  
UNITED STATES MAGISTRATE JUDGE

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PLAINTIFF’S NOTICE ON TYPE OF  
APPEARANCE AT SETTLEMENT  
CONFERENCE

Check one:

\_\_\_\_\_ Plaintiff would like to participate in the settlement conference in person.

\_\_\_\_\_ Plaintiff would like to participate in the settlement conference by video/telephone.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Kordy Rice  
Plaintiff pro se