1			
2			
3			
4			
5			
6			
7			
8			
9	UNITED STATES DISTRICT COURT		
10	FOR THE EASTERN DISTRICT OF CALIFORNIA		
11			
12	ETUATE SEKONA,	No. 2:17-cv-0346-KJM-EFB P	
13	Plaintiff,		
14	V.	ORDER SETTING SETTLEMENT	
15	JOE A. LIZARRAGA, et al.,	CONFERENCE	
16	Defendants.		
17			
18	Plaintiff is a state prisoner proceeding	without counsel in an action brought under 42	
19	U.S.C. §1983. On October 26, 2018, the parti	es were ordered to inform this court's ADR	
20	division if they believed a settlement conferen	ce would be beneficial. ECF No. 36. After a	
21	review of the parties' responses, the court has determined that this case will benefit from a		
22	settlement conference. Therefore, this case will be referred to Magistrate Judge Carolyn K.		
23	Delaney to conduct a settlement conference at the U.S. District Court, 501 I Street, Sacramento,		
24	California 95814 in Courtroom #24 on January 31, 2019 at 9:30 a.m.		
25	Plaintiff shall have the option to appear at the settlement conference in person or by video		
26	conference. In the event video conferencing capabilities are unavailable, plaintiff may appear by		
27	telephone. Plaintiff will be required to return the attached form advising the court how he would		
28	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 Carolyn K.			
6	Delaney on January 31, 2019 at 9:30 a.m. at the U.S. District Court, 501 I Street,			
7	Sacramento, California 95814 in Courtroom #24.			
8	2. Parties are instructed to have a principal with full settlement authority present at the			
9	Settlement Conference or to be fully authorized to settle the matter on any terms. The			
10	individual with full authority to settle must also have "unfettered discretion and			
11	authority" to change the settlement position of the party, if appropriate. The purpose			
12	behind requiring the attendance of a person with full settlement authority is that the			
13	parties' view of the case may be altered during the face to face conference. An			
14	authorization to settle for a limited dollar amount or sum certain can be found not to			
15	comply with the requirement of full authority to settle ¹ .			
16	3. Plaintiff shall have the choice to attend the settlement conference in person or by			
17	video. Within ten days after the filing date of this order, plaintiff shall return the			
18	attached form notifying the court whether he would like to attend the settlement			
19	conference in person or by video. If plaintiff chooses to appear by video and video			
20	conferencing is not available, he may appear by telephone. If plaintiff does not return			
21				
22	¹ While the exercise of its authority is subject to abuse of discretion review, "the district court has the authority to order parties, including the federal government, to participate in mandatory settlement			
23	conferences" <u>United States v. United States District Court for the Northern Mariana Islands</u> , 694 F.3d 1051, 1053, 1057, 1059 (9 th Cir. 2012)("the district court has broad authority to compel participation in mandatory			
24	settlement conference[s]."). The term "full authority to settle" means that the individuals attending the mediation conference must be authorized to fully explore settlement options and to agree at that time to any			
25	settlement terms acceptable to the parties. <u>G. Heileman Brewing Co., Inc. v. Joseph Oat Corp.</u> , 871 F.2d 648, 653 (7 th Cir. 1989), <u>cited with approval in Official Airline Guides, Inc. v. Goss</u> , 6 F.3d 1385, 1396 (9 th Cir. 1993).			
26	The individual with full authority to settle must also have "unfettered discretion and authority" to change the settlement position of the party, if appropriate. <u>Pitman v. Brinker Int'l., Inc.</u> , 216 F.R.D. 481, 485-86 (D. Ariz.			
27	2003), <u>amended on recon. in part</u> , <u>Pitman v. Brinker Int'l., Inc.</u> , 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			
28	the case may be altered during the face to face conference. <u>Pitman</u> , 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 outbarity to actile. Nickey Margaria Faceda Ing. 270 F.2d F00, F0(, 07 (0th Cir. 2001)			
	authority to settle. <u>Nick v. Morgan's Foods, Inc.</u> , 270 F.3d 590, 596-97 (8 th Cir. 2001). 2			
ļ				

1		
2	the form telling the court how he would like to attend the conference, the court will	
3	issue orders for plaintiff to appear by video.	
4	4. Parties are directed to submit confidential settlement statements no later than January	
5	24, 2019 to ckdorders@caed.uscourts.gov. Plaintiff shall mail his confidential	
6	settlement statement Attn: Magistrate Judge Carolyn K. Delaney, USDC CAED, 501 I	
7	Street, Suite 4-200, Sacramento, California 95814 so it arrives no later than January	
8	24, 2019. The envelope shall be marked "CONFIDENTIAL SETTLEMENT	
9	STATEMENT." Parties are also directed to file a "Notice of Submission of	
10	Confidential Settlement Statement" (See L.R. 270(d)).	
11		
12	Settlement statements should not be filed with the Clerk of the Court nor served on	
13	any other party. Settlement statements shall be clearly marked "confidential" with	
14	the date and time of the settlement conference indicated prominently thereon.	
15		
16	The confidential settlement statement shall be no longer than five pages in length,	
17	typed or neatly printed, and include the following:	
18		
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 upon	
21	which the claims are founded; a forthright evaluation of the parties' likelihood of	
22	prevailing on the claims and defenses; and a description of the major issues in	
23	dispute.	
24	c. A summary of the proceedings to date.	
25	d. An estimate of the cost and time to be expended for further discovery, pretrial, and	
26	trial.	
27	e. The relief sought.	
28		
	3	

1				
2	f. The party's position on settlement, including present demands and offers and a			
3	history of past settlement discussions, offers, and demands.			
4	g. A brief statement of each party's expectations and goals for the settlement			
5	conference, including how much a party is willing to accept and/or willing to pay.			
6	h. If the parties intend to discuss the joint settlement of any other actions or claims			
7	not in this suit, give a brief description of each action or claim as set forth above,			
8	including case number(s) if applicable.			
9	DATED: December 6, 2018.			
10	Elming Fibieman			
11	EDMUND F. BRENNAN UNITED STATES MAGISTRATE JUDGE			
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				
26				
27				
28				
	4			

1			
2			
3			
4			
5			
6			
7			
8	UNITED STATES DISTRICT COURT		
9	FOR THE EASTERN DISTRICT OF CALIFORNIA		
10			
11	ETUATE SEKONA,	No. 2:17-cv-00346-KJM-EFB P	
12	Plaintiff,		
13	v.	PLAINTIFF'S NOTICE ON TYPE OF	
14	JOE A. LIZARRAGA, et al.,	<u>APPEARANCE AT SETTLEMENT</u> <u>CONFERENCE</u>	
15	Defendants.		
16			
17	Check one:		
18			
19	Plaintiff would like to participate in the settlement conference in person.		
20			
21	Plaintiff would like to participate in th	e settlement conference by video/telephone.	
22			
23			
24			
25	Date	Etuate Sekona	
26	Dau	Plaintiff pro se	
27			
28			
		5	
	l l		