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9	UNITED STATES DISTRICT COURT		
10	FOR THE EASTERN DISTRICT OF CALIFORNIA		
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12	TOM M. FRANKS,	No. 2:17-cv-01056-KJM-CKD P	
13	Plaintiff,		
14	v.	<u>ORDER SETTING SETTLEMENT</u> <u>CONFERENCE</u>	
15	J. CLARK KELSO, et al.,		
16	Defendants.		
17			
18	Plaintiff is a state prisoner proceeding pro se in an action brought under 42 U.S.C. § 1983.		
19	The court has determined that this case will benefit from a settlement conference. Therefore, this		
20	case will be referred to Magistrate Judge Kendall J. Newman to conduct a settlement conference		
21	on April 14, 2022 at 9:00 a.m. The settlement conference will be conducted by remote means,		
22	with all parties appearing by Zoom video conference. The court will issue the necessary		
23	transportation order in due course.		
24	In accordance with the above, IT IS HEREBY ORDERED that:		
25	1. This case is set for a settlement conference before Magistrate Judge Kendall J.		
26	Newman on April 14, 2022 at 9:00 a.m. The settlement conference will be conducted		
27	by remote means, with all parties appearing by Zoom video conference.		
28	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. 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.	The parties are directed to exchange non-confidential settlement statements seven days	
8		prior to the settlement conference. These statements shall simultaneously be delivered	
9		to the court using the following email address: <u>kjnorders@caed.uscourts.gov</u> . Plaintiff	
10		shall mail his non-confidential settlement statement Attn: Magistrate Judge Kendall J.	
11		Newman, USDC CAED, 501 I Street, Suite 4-200, Sacramento, CA 95814 so that it	
12		arrives at least seven (7) days prior to the settlement conference. The envelope shall	
13		be marked "SETTLEMENT STATEMENT." The date and time of the settlement	
14		conference shall be prominently indicated on the settlement statement. If a party	
15		desires to share additional confidential information with the court, they may do so	
16		pursuant to the provisions of Local Rule 270(d) and (e).	
17	5.	Judge Newman or another representative from the court will be contacting the parties	
18		either by telephone or in person, approximately two weeks prior to the settlement	
19		conference to ascertain each party's expectations of the settlement conference.	
20	/////		
21	/////		
22	1 3371-11-41		
23	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 conferences" <u>United States</u>		
24	v. United States District Court for the Northern Mariana Islands, 694 F.3d 1051, 1053, 1057, 1059 (9 th Cir. 2012)("the district court has broad authority to compel participation in mandatory settlement conference[s]."). The		
25	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 settlement terms acceptable to the parties. G. Hailaman Brawing Co. Inc. y. Joseph Oct Corm. 871 E 2d 648, 653 (7 th Cir. 1980), aited with approval in Official		
26	<u>Heileman Brewing Co., Inc. v. Joseph Oat Corp.</u> , 871 F.2d 648, 653 (7 th Cir. 1989), <u>cited with approval in Official</u> <u>Airline Guides, Inc. v. Goss</u> , 6 F.3d 1385, 1396 (9 th 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. <u>Pitman v.</u>		
27	<u>Brinker Int'l., Inc.</u> , 216 F.R.D. 481, 485-86 (D. Ariz. 2003), <u>amended on recon. in part, 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		
28	authority is that the parties' view of 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 authority to settle. <u>Nick v. Morgan's Foods, Inc.</u> , 270 F.3d 590, 596-97 (8 th Cir. 2001).		
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2	6. The Clerk of the Court is directed to serve a copy of this order on the Litigation Office
3	at the RJ Donovan Correctional Facility, via facsimile at (619) 671-7566 or by email.
4	Dated: January 27, 2022 Canh / Delan
5	CAROLYN K. DELANEY
6	UNITED STATES MAGISTRATE JUDGE
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