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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 CHARLES FAULTRY,

12 Plaintiff,

13 v.

14 J. SAECHAO, et al.,

15 Defendants.
16

No. 2:18-cv-1850 KJM AC P

ORDER and

**ORDER SETTING SETTLEMENT
CONFERENCE**

17 Plaintiff is a state prisoner proceeding pro se in an action brought under 42 U.S.C. §1983.
18 The court has determined that this case will benefit from a settlement conference. Therefore, this
19 case will be referred to Magistrate Judge Dennis M. Cota to conduct a settlement conference on
20 November 12, 2020 at 1:00 p.m. The settlement conference will be conducted by remote means,
21 to be determined at a later date and time. The Court will issue the necessary transportation order
22 in due course.

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

- 24 1. **This case is set for a settlement conference before Magistrate Judge Dennis M.**
25 **Cota on November 12, 2020 at 1:00 p.m.** The settlement conference will be
26 conducted by remote means, to be determined at a later date and time.

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- 2 2. A representative with full and unlimited authority to negotiate and enter into a binding
- 3 settlement on the defendants' behalf shall attend in person¹.
- 4 3. Those in attendance must be prepared to discuss the claims, defenses and damages.
- 5 The failure of any counsel, party or authorized person subject to this order to appear in
- 6 person may result in the imposition of sanctions. In addition, the conference will not
- 7 proceed and will be reset to another date.
- 8 4. Parties are directed to submit confidential settlement statements no later than
- 9 November 5, 2020 to dmccorders@caed.uscourts.gov. Plaintiff shall mail his
- 10 confidential settlement statement to Attn: Magistrate Judge Dennis M. Cota, USDC
- 11 CAED, 2986 Bechelli Lane, Suite 300, Redding, California 96002 so it arrives no later
- 12 than November 5, 2020. The envelope shall be marked "CONFIDENTIAL
- 13 SETTLEMENT STATEMENT." Parties are also directed to file a "Notice of
- 14 Submission of Confidential Settlement Statement" (See L.R. 270(d)).

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16 Settlement statements **should not be filed** with the Clerk of the Court **nor served on**

17 **any other party**. Settlement statements shall be clearly marked "confidential" with

18 the date and time of the settlement conference indicated prominently thereon.

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22 ¹ While the exercise of its authority is subject to abuse of discretion review, "the district court has the

23 authority to order parties, including the federal government, to participate in mandatory settlement

24 conferences..." United States v. United States District Court for the Northern Mariana Islands, 694 F.3d 1051,

25 1053, 1057, 1059 (9th Cir. 2012)("the district court has broad authority to compel participation in mandatory

26 settlement conference[s]"). The term "full authority to settle" means that the individuals attending the

27 mediation conference must be authorized to fully explore settlement options and to agree at that time to any

28 settlement terms acceptable to the parties. G. Heileman Brewing Co., Inc. v. Joseph Oat Corp., 871 F.2d 648,

653 (7th Cir. 1989), cited with approval in Official Airline Guides, Inc. v. Goss, 6 F.3d 1385, 1396 (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).

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

- a. A brief statement of the facts of the case.
 - b. A brief statement of the claims and defenses, i.e., statutory or other grounds upon 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, including how much a party is willing to accept and/or willing to pay.
 - h. If the parties intend to discuss the joint settlement of any other actions or claims not in this suit, give a brief description of each action or claim as set forth above, including case number(s) if applicable.
5. Judge Cota or another representative from the court will be contacting the parties either by telephone or in person, approximately two weeks prior to the settlement conference, to ascertain each party's expectations of the settlement conference.
- 6. The deadline for filing a Joint Pretrial Statement (November 20, 2020) and date for convening a status conference re: trial setting (February 12, 2021), set by order filed October 6, 2020 (ECF No. 42), shall remain in place pending further order of this court.**


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7. The Clerk of the Court is directed to serve a copy of this order on the Litigation Office
at California State Prison, Sacramento, via facsimile at (916) 294-3072 or via email.

DATED: October 9, 2020


ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE