

United States District Court  
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES,  
Plaintiff(s),

No. C-06-5838 PJH (MEJ)  
NOTICE AND ORDER SCHEDULING  
SETTLEMENT CONFERENCE

vs.

LOUIS G. BEARY. et al..  
Defendant(s).

TO ALL PARTIES and their Attorneys of Record:

PLEASE TAKE NOTICE that this case has been scheduled for a Settlement Conference before Magistrate Judge Maria-Elena James. The Settlement Conference shall take place on **November 12, 2008, at 10:00 a.m. in Judge James' chambers**, located at the Federal Building, 450 Golden Gate Avenue, 15th Floor, San Francisco, California 94102. **The parties shall immediately notify the Court if this matter settles or is dismissed before the settlement conference date.** On the date of the settlement conference, counsel and parties shall use the telephone adjacent to chambers' security entrance to notify the Court of their arrival.

Settlement Conference statements shall be submitted in accordance with Magistrate Judge James' STANDING ORDER RE: SETTLEMENT CONFERENCE PROCEDURES, a copy of which may be obtained from the Northern District of California's website at <http://www.cand.uscourts.gov/>. From the homepage, click on the "Judges" tab on the left margin, then choose Magistrate Judge James.

When filing papers that require the Court to take any action (e.g. motions, calendaring issues, administrative requests or a request to be excused from attendance), the parties shall, in addition to filing papers electronically, lodge with chambers a printed copy of the papers by the close of the next court day following the day the papers are filed electronically. These printed copies shall be marked "Chambers Copy" and shall be submitted to the Clerk's Office, in an envelope clearly

1 marked with Judge James' name, case number and "E-Filing Chambers Copy." Parties shall not file  
2 a paper copy of any document with the Clerk's Office that has already been filed electronically.

3 **Any proposed orders must also be emailed to: mejpo@cand.uscourts.gov**

4 Please contact the Courtroom Deputy Clerk, Brenda Tolbert, at (415) 522-4708 with any  
5 questions.

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7 IT IS SO ORDERED.

8 Dated: October 6, 2008

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11 MARIA-ELENA JAMES  
12 United States Magistrate Judge  
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1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF CALIFORNIA

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4 STANDING ORDERS RE: SETTLEMENT CONFERENCE PROCEDURES

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6 FOR CASES REFERRED TO MAGISTRATE JUDGE MARIA-ELENA JAMES  
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9 IN ALL CASES referred to Magistrate Judge Maria-Elena James for a settlement conference,  
10 the parties shall follow the following procedures:

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12 SETTLEMENT CONFERENCE PROCEDURES.

13 Prior to filing a settlement conference statement, counsel shall discuss all settlement positions  
14 with their clients.

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16 THE SETTLEMENT CONFERENCE STATEMENT.

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18 SUBMISSION: Not later than seven (7) calendar days prior to the settlement conference, each  
19  
20 party shall submit a Settlement Conference Statement addressed to Magistrate Judge James  
21 DIRECTLY to the United States District Court Clerk's Office in San Francisco, located at 450 Golden  
22 Gate Avenue, 16th Floor, P.O. Box 36060, San Francisco, California 94102. Settlement Conference  
23 Statements should be submitted in a sealed envelope. Envelopes should be prominently marked  
24 CONFIDENTIAL - SETTLEMENT CONFERENCE STATEMENT - DO NOT FILE.

25  
26 Settlement Conference Statements shall not be filed with the Clerk of the Court, and shall  
27 not be served upon other parties or their counsel. Only the Court and its personnel shall have

1 access to these statements. Under no conditions shall other parties or counsel have access to  
2 these statements.

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4 CONTENT: The form and content of the Settlement Conference Statement will vary  
5 depending on the case. Generally, the Settlement Conference Statement shall include the following:

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7 1. Statement of Facts. A brief description of the facts giving rise to the case.

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9 2. Summary of Proceedings. A brief summary of the proceedings to date.

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11 3. Undisputed Matters. A plain and concise statement of all material facts not in dispute,  
12 including a statement of disputed matters which have been resolved by stipulation.

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14 4. Disputed Issues of Fact. A plain and concise statement of the material facts that remain in  
15 dispute.

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17 5. Disputed Issues of Law. A brief statement of the disputed points of law, including reference  
18 to specific statutes and decisions relied upon. Extended legal argument is not appropriate. Reference  
19 may be made to Points and Authorities previously filed.

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21 6. Relief Sought. A statement of the relief sought, including a particularized itemization of  
22 all elements of damages.

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24 8. Prior Settlement Discussions. A chronological summary of prior settlement activity  
25 between the parties including settlement offers and responses thereto.

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27 9. Settlement Analysis. A brief and forthright evaluation of the strengths and weaknesses of

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1 the party's case and the probabilities of prevailing on the major issues in dispute.

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3 10. Discrete Issues. Identify and, if appropriate, prioritize any discrete issues which, if  
4 resolved, would aid in the disposition of the case.

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6 11. Current Settlement Position. Set forth a reasonable proposal of settlement.

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8 THE SETTLEMENT CONFERENCE.

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10 All parties and their counsel of record are required to attend the settlement conference. Each  
11 party must attend the conference having full authority to negotiate and settle the case. If a party is  
12 indemnified by a non-party indemnitor, including but not limited to, indemnification pursuant to an  
13 insurance policy, the indemnitor, and the indemnitor's counsel, if necessary, must also attend the  
14 conference and have authority to settle the case.

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16 Counsel who attends the settlement conference without the full authority to settle may be  
17 subject to sanctions, pursuant to Federal Rule of Civil Procedure 16(f).

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19 Only upon written showing of good cause, submitted at least fourteen calendar days prior to  
20 the settlement conference, will the Court excuse a party or Counsel from mandatory attendance of the  
21 settlement conference. Parties or Counsel may only be excused from attending the settlement  
22 conference upon written authorization from Judge James. Parties or Counsel who fail to attend the  
23 settlement conference without authorization from Judge James may be subject to sanctions, pursuant  
24 to Federal Rule of Civil Procedure 16(f).

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26 In rare circumstances, upon written showing of good cause, submitted at least fourteen  
27 calendar days prior to the settlement conference, Judge James may authorize a party or Counsel to be

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1 available by telephone for purposes of authorizing settlement ONLY.

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3 Counsel is responsible for notifying their clients of the settlement conference's time, date, and  
4 all rescheduling of the settlement conference.

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6 **To reschedule a settlement conference, counsel shall contact the Deputy Clerk at (415)**  
7 **522-4708 to obtain a new date and time, no later than seven court days prior to the scheduled**  
8 **settlement conference. Counsel shall confirm the new date and time with opposing counsel.**  
9 **Thereafter, counsel shall file a joint stipulation which states that the settlement conference is**  
10 **rescheduled and sets forth the new time and date of the settlement conference. The Court will**  
11 **not reschedule a settlement conference upon unilateral request of counsel and the settlement**  
12 **conference will remain on calendar for the originally noticed time and date until the Court**  
13 **receives said joint stipulation. Counsel who fails to coordinate the rescheduling of the settlement**  
14 **conference with opposing party, or fails to file said joint stipulation at least three Court days**  
15 **prior to the scheduled settlement conference may be subject to sanctions, pursuant to Federal**  
16 **Rule of Civil Procedure 16(f).**

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18 If the case is settled in advance of the settlement conference, the parties MUST notify Judge  
19 James' chambers by telephone and in writing as soon as possible. Failure to do so may subject the  
20 parties to sanctions, pursuant to Federal Rule of Civil Procedure 16(f).

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24 IT IS SO ORDERED.

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26 Date: September 19, 2005

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MARIA-ELENA JAMES  
United States Magistrate Judge

1 UNITED STATES DISTRICT COURT  
2 FOR THE  
3 NORTHERN DISTRICT OF CALIFORNIA

4 USA,  
5 Plaintiff,

Case Number: CV06-05838 PJH

6 v.

**CERTIFICATE OF SERVICE**

7 LOUIS G BEARY et al,  
8 Defendant.

9 \_\_\_\_\_  
10 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court,  
11 Northern District of California.

12 That on October 6, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said  
13 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said  
14 envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located  
15 in the Clerk's office.

16 Cynthia Lewis Stier  
17 United States Attorney's Office  
18 450 Golden Gate Avenue  
19 9th Floor  
20 Box 36055  
21 San Francisco, CA 94102

22 Karen W. Yiu  
23 Office of the Attorney General  
24 455 Golden Gate Avenue, Suite 11000  
25 San Francisco, CA 94102-7004

26 Laurel I. Handley  
27 Pite Duncan, LLP  
28 4375 JUTLAND DRIVE, SUITE 200  
SAN DIEGO, CA 92117

Peter Tansey Churchill  
1682 Novato Boulevard  
Suite 350  
Novato, CA 94947

Richard Charles O'Hare M

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Beyers Costin & Case  
200 Fourth Street, Suite 400  
P.O. Box 878  
Santa Rosa, CA 95402

Thomas Moore  
U.S. Attorney's Office  
450 Golden Gate Avenue, 10th Floor  
Box 36055  
San Francisco, CA 94102

Dated: October 6, 2008

Richard W. Wieking, Clerk  
By: Brenda Tolbert, Deputy Clerk