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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

ROSARIO JUAREZ,)	Civil No. 08cv417-L (BLM)
)	
Plaintiff,)	
)	ORDER CONTINUING SETTLEMENT
v.)	CONFERENCE
)	
AUTOZONE STORES, INC.,)	[Doc. No. 35]
)	
Defendants.)	
_____)	

On February 4, 2009, Plaintiff Rosario Juarez and Defendant Autozone Stores, Inc. filed a joint motion to continue the Settlement Conference scheduled for February 10, 2009. Doc. No. 35. In support of their request, the parties state that Plaintiff intends to file an amended complaint and that the parties anticipate conducting additional discovery. Id. While the Court accepts the parties' representation that they are not ready to discuss settlement, the Court notes that the deadline for amending the complaint passed many months ago (doc. no. 15) and that the deadline for completing discovery is February 12, 2009 (doc. no. 30). As a result, the parties cannot amend the complaint and conduct new discovery without establishing good cause in a written motion and

1 obtaining a judge's consent. See, e.g., Fed. R. Civ. P. 16(b)(4).
2 Accordingly, the Court does not consider or address the stated
3 reasons for the parties' unwillingness to engage in settlement
4 discussions at this time. Based solely on the parties'
5 representation that they currently are not ready to engage in
6 settlement discussions, the Court **GRANTS** the parties' joint motion
7 and continues the Settlement Conference to **May 18, 2009** at **9:30**
8 **a.m.**.

9 All discussions at the Settlement Conference will be
10 informal, off the record, privileged, and confidential. Counsel for
11 any non-English speaking party is responsible for arranging for the
12 appearance of an interpreter at the conference.

13 1. **Personal Appearance of Parties Required:** All
14 parties, adjusters for insured defendants, and other representatives
15 of a party having full and complete authority to enter into a
16 binding settlement, as well as the principal attorneys responsible
17 for the litigation, must be present **in person** and legally and
18 factually prepared to discuss settlement of the case. Counsel
19 appearing without their clients (whether or not counsel has been
20 given settlement authority) will be cause for immediate imposition
21 of sanctions and may also result in the immediate termination of the
22 conference.

23 Unless there are extraordinary circumstances, persons
24 required to attend the conference pursuant to this Order shall not
25 be excused from personal attendance. **Requests for excuse from**
26 **attendance for extraordinary circumstances shall be made in writing**
27 **at least three (3) court days prior to the conference.** Failure to
28 appear **in person** at the Settlement Conference will be grounds for

1 sanctions.

2 2. **Full Settlement Authority Required:** In addition to
3 counsel who will try the case, a party or party representative with
4 full settlement authority¹ must be present for the conference. In
5 the case of a corporate entity, an authorized representative of the
6 corporation who is not retained outside counsel must be present and
7 must have discretionary authority to commit the company to pay an
8 amount up to the amount of Plaintiff's prayer (excluding punitive
9 damages prayers). The purpose of this requirement is to have
10 representatives present who can settle the case during the course of
11 the conference without consulting a superior. Counsel for a
12 government entity may be excused from this requirement so long as
13 the government attorney who attends the Settlement Conference (1)
14 has primary responsibility for handling the case, and (2) may
15 negotiate settlement offers which the attorney is willing to
16 recommend to the government official having ultimate settlement
17 authority.

18 3. **Confidential Settlement Statements Required:** No
19 later than May 11, 2009, the parties shall submit directly to
20 Magistrate Judge Major's chambers confidential settlement statements

22 ¹ "Full settlement authority" means that the individuals at the settlement
23 conference must be authorized to explore settlement options fully and to agree at that
24 time to any settlement terms acceptable to the parties. Heileman Brewing Co. v. Joseph
25 Oat Corp., 871 F.2d 648, 653 (7th Cir. 1989). The person needs to have "unfettered
26 discretion and authority" to change the settlement position of a party. Pitman v.
27 Brinker Int'l, Inc., 216 F.R.D. 481, 485-86 (D. Ariz. 2003). The purpose of requiring
28 a person with unlimited settlement authority to attend the conference contemplates that
the person's view of the case may be altered during the face to face conference. Id.
29 486. A limited or a sum certain of authority is not adequate. See Nick v. Morgan's
Foods, Inc., 270 F.3d 590, 595-97 (8th Cir. 2001).

1 no more than five (5) pages in length. **These confidential**
2 **statements shall not be filed or served on opposing counsel.** Each

3 party's confidential statement must include the following:

4 (a) A brief description of the case, the claims
5 and/or counterclaims asserted, and the applicable defenses or
6 position regarding the asserted claims;

7 (b) A specific and current demand or offer for
8 settlement addressing all relief or remedies sought. If a specific
9 demand or offer for settlement cannot be made at the time the brief
10 is submitted, then the reasons therefore must be stated along with
11 a statement as to when the party will be in a position to state a
12 demand or make an offer; and

13 (c) A brief description of any previous settlement
14 negotiations, mediation sessions, or mediation efforts.

15 General statements that a party will "negotiate in good
16 faith" is not a specific demand or offer contemplated by this Order.
17 It is assumed that all parties will negotiate in good faith.

18 4. **Requests to Continue a Settlement Conference:** Any
19 request to continue the Settlement Conference or request for relief
20 from any of the provisions or requirements of this Order must be
21 sought by a **written ex parte application.** The application must (1)
22 be supported by a declaration of counsel setting forth the reasons
23 and justifications for the relief requested, (2) confirm compliance
24 with Civil Local Rule 26.1, and (3) report the position of opposing
25 counsel or any unrepresented parties subject to the Order. **Absent**
26 **extraordinary circumstances, requests for continuances will not be**
27 **considered unless submitted in writing no less than seven (7) days**
28 **prior to the scheduled conference.**

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If the case is settled in its entirety before the scheduled date of the conference, counsel and any unrepresented parties must still appear in person, unless a written joint notice confirming the complete settlement of the case is filed no fewer than twenty-four (24) hours before the scheduled conference.

IT IS SO ORDERED.

DATED: February 5, 2009



BARBARA L. MAJOR
United States Magistrate Judge