

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

DR. CHARBEL MAKSOUD,

Plaintiff,

v.

HOPKINS *et al.*,

Defendants.

Case No.: 17-CV-362-H(WVG)

**ORDER RESCHEDULING
MANDATORY SETTLEMENT
CONFERENCE**

Due to a conflict with the Court’s criminal calendar, the August 27, 2018 Mandatory Settlement Conference is VACATED and rescheduled as set forth below.

A Mandatory Settlement Conference shall be conducted on **November 14, 2018**, at **2:00 p.m.** in the chambers of Magistrate Judge William V. Gallo. Counsel shall submit settlement statements **directly to chambers via efile_Gallo@casd.uscourts.gov** no later than **October 31, 2018**. Each party’s settlement statement shall set forth the party’s statement of the case, identify controlling legal issues, concisely set out issues of liability and damages, and shall set forth the party’s settlement position, including the last offer or demand made by that party, and a separate statement of the offer or demand the party is prepared to make at the settlement conference. **Settlement conference briefs shall not be filed with the Clerk of the Court, but may be served on opposing counsel at the party’s discretion. Settlement conference briefs shall comply with the undersigned’s**

1 **Chambers Rules.** The parties shall meet and confer in good faith prior to the Mandatory
2 Settlement Conference, and verify that they have done so in their respective Mandatory
3 Settlement Conference statements, outlining the substance of their discussions and
4 negotiations.

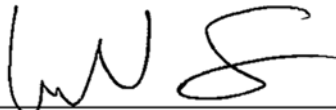
5 Pursuant to Federal Rule of Civil Procedure 16 and Local Civil Rule 16.3, all named
6 Plaintiffs, named Defendants, claims adjusters for insured defendants, and if a named
7 Plaintiff or Defendant is a corporation, partnership, or other entity, a representative of that
8 entity, with full and unlimited authority¹ to negotiate and enter into a binding settlement,
9 as well as the principal attorney(s) responsible for the litigation, must be present and must
10 be prepared to discuss in good faith, the facts of the case, the law that governs the legal
11 issues in the case, and to resolve the case at the Settlement Conference. Sanctions may
12 issue against a party and/or attorney who does not proceed as noted above. Retained
13 outside corporate counsel shall not appear on behalf of a corporation as the party who has
14 the authority to negotiate and enter into a settlement. For good cause, and on ex parte
15 application at least one week before the scheduled settlement conference, Magistrate Judge
16 Gallo may excuse a party or representative from personal attendance provided such party
17 or parties will be available by telephone during the conference. Failure to attend the
18 conference or participate in good faith or obtain proper excuse will be considered grounds
19 for sanctions. Counsel seeking to reschedule a Settlement Conference must first confer
20 with opposing counsel. The Court will consider formal, written *ex parte* requests to
21

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

1 continue a Settlement Conference when extraordinary circumstances exist that make a
2 continuance appropriate. In and of itself, having to travel a long distance to appear at the
3 Settlement Conference is not an extraordinary circumstance.

4 **IT IS SO ORDERED.**

5 DATED: August 1, 2018

6 
7 _____
8 Hon. William V. Gallo
9 United States Magistrate Judge

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28