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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

EMILIO REYES,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
THE INTERIOR, BUREAU OF INDIAN
AFFAIRS, et al.,

Defendants.

Case No.: 17cv2120-JAH(RBB)

**NOTICE AND ORDER SETTING
EARLY NEUTRAL EVALUATION
CONFERENCE**

IT IS HEREBY ORDERED that an early neutral evaluation of your case will be held before United States Magistrate Judge Ruben B. Brooks, United States Courthouse, 221 West Broadway, Courtroom 2C, San Diego, California, on **February 7, 2018**, at **1:30 p.m.**

Pursuant to Rule 16.1(c) of the Local Rules of the United States District Court for the Southern District of California, all parties (including those who are indemnified by others), claims adjusters for insured Defendants and non-lawyer representatives with full

1 and unlimited authority¹ to enter into a binding settlement, as well as the principal
2 attorneys responsible for the litigation, must be present and legally and factually prepared
3 to discuss and resolve the case. Corporate counsel shall not appear on behalf of a
4 corporation as the party representative who has the authority to negotiate and enter into a
5 settlement. Failure to attend or obtain a proper excusal will be considered grounds for
6 sanctions. (Where the suit involves the United States or one of its agencies, only counsel
7 for the United States with full settlement authority need appear.) (If Plaintiff is
8 incarcerated in a penal institution or other facility, the Plaintiff's presence is not required
9 and Plaintiff may participate by telephone. In that case, defense counsel is to coordinate
10 the Plaintiff's appearance by telephone.)

11 Plaintiff's counsel shall give notice of the early neutral evaluation conference to all
12 defendants filing an answer after the date of this notice.

13 All conference discussions will be informal, off the record, privileged and
14 confidential. Absent good cause shown, if any party, counsel or representative fails to
15 promptly appear at the settlement conference, fails to comply with the terms of this
16 Order, including the failure to timely provide the settlement conference memoranda
17 WHEN REQUESTED, is substantially unprepared to meaningfully participate in the
18 settlement conference, or fails to participate in good faith in the settlement conference,
19 the settlement conference may be vacated and sanctions may be imposed pursuant to
20 Rules 16(f) and 37(b)(2)(B), (C), and (D), Federal Rules of Civil Procedure.

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24 ¹ "Full authority to settle" means that the individuals at the settlement conference be authorized to fully
25 explore settlement options and to agree at that time to any settlement terms acceptable to the parties.
26 Heileman Brewing Co., Inc. v. Joseph Oat Corp., 871 F.2d 648 (7th Cir. 1989). The person needs to
27 have "unfettered discretion and authority" to change the settlement position of a party. Pitman v.
28 Brinker Int'l, Inc., 216 F.R.D. 481, 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. Pitman, 216 F.R.D. 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 In the event the case does not settle at the early neutral evaluation conference, the
2 parties shall also be prepared to discuss the following matters at the conclusion of the
3 conference:

4 1. Any anticipated objections under Federal Rules of Civil Procedure
5 26(a)(1)(E) to the initial disclosure provisions of Federal Rule of Civil Procedure
6 26(a)(1)(A-D);

7 2. The scheduling of the Federal Rule of Civil Procedure 26 (f) conference
8 (except in patent cases where no later than twenty-one days before the early neutral
9 evaluation conference, the parties are to meet and confer pursuant to Rule 26(f));

10 3. The date of initial disclosure and the date for lodging the discovery plan
11 following the Rule 26(f) conference; and

12 4. The scheduling of a case management conference pursuant to Federal Rule
13 of Civil Procedure 16(b).

14 The Court will issue an order following the early neutral evaluation conference
15 addressing these issues and setting dates as appropriate.

16 Questions regarding this case may be directed to the magistrate judge's research
17 attorney at (619) 557-3404.

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19 Dated: January 9, 2018



Hon. Ruben B. Brooks
United States Magistrate Judge

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24 cc: All Parties of Record

25 A Notice of Right to Consent to Trial Before a United States Magistrate Judge is attached
26 for your information.
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