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7 UNITED STATES DISTRICT COURT
8 SOUTHERN DISTRICT OF CALIFORNIA
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10 LONNIE KEENAN,

11 Plaintiff,

12 v.

13 COX COMMUNICATIONS;
14 DANIEL MARTINEZ; and
15 DOES 1 through 5,

16 Defendants.
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Case No.: 18cv129-MMA-LL

**ORDER SETTING MANDATORY
SETTLEMENT CONFERENCE**

19 On January 14, 2021, District Judge Michael M. Anello held an appeal mandate
20 hearing and ordered the parties to contact the chambers of the undersigned magistrate judge
21 to schedule a settlement conference. ECF No. 58. The parties timely contacted chambers
22 and the Court **ORDERS** the following:

23 1. A Mandatory Settlement Conference shall be conducted on **March 11, 2021**
24 at **10:00 a.m.** via video conference. All discussions at the Mandatory Settlement
25 Conference will be informal, off the record, privileged, and confidential. Counsel for any
26 non-English speaking party is responsible for arranging for the appearance of an interpreter
27 at the conference.

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1 a. **Personal Appearance of Parties Required**: All parties, adjusters for
2 insured defendants, and other representatives of a party having full and complete authority
3 to enter into a binding settlement, as well as the principal attorneys responsible for the
4 litigation, must be present on the video conference and legally and factually prepared to
5 discuss settlement of the case. Counsel appearing without their clients (whether or not
6 counsel has been given settlement authority) will be cause for immediate imposition of
7 sanctions and may also result in the immediate termination of the conference.

8 Unless there is good cause, persons required to attend the conference pursuant to this
9 Order shall not be excused from personal attendance. Requests for excuse from attendance
10 for good cause shall be made in writing at least three (3) court days prior to the conference.
11 Failure to appear in person at the Mandatory Settlement Conference will be grounds for
12 sanctions.

13 b. **Full Settlement Authority Required**: In addition to counsel who will
14 try the case, a party or party representative with full settlement authority¹ must be present
15 on the video conference. In the case of a corporate entity, an authorized representative of
16 the corporation who is not retained outside counsel must be present and must have
17 discretionary authority to commit the company to pay an amount up to the amount of
18 Plaintiff's prayer (excluding punitive damages prayers). The purpose of this requirement is
19 to have representatives present who can settle the case during the course of the conference
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22 ¹ "Full settlement authority" means that the individuals at the settlement conference must
23 be authorized to explore settlement options fully and to agree at that time to any settlement
24 terms acceptable to the parties. Heileman Brewing Co. v. Joseph Oat Corp., 871 F.2d 648,
25 653 (7th Cir. 1989). The person needs to have "unfettered discretion and authority" to
26 change the settlement position of a party. Pitman v. Brinker Int'l, Inc., 216 F.R.D. 481,
27 485-86 (D. Ariz. 2003). The purpose of requiring a person with unlimited settlement
28 authority to attend the conference contemplates 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. See Nick v. Morgan's Foods, Inc., 270 F.3d 590, 595-97
(8th Cir. 2001).

1 without consulting a superior. Counsel for a government entity may be excused from this
2 requirement so long as the government attorney who attends the Mandatory Settlement
3 Conference (1) has primary responsibility for handling the case, and (2) may negotiate
4 settlement offers which the attorney is willing to recommend to the government official
5 having ultimate settlement authority.

6 c. **Confidential Settlement Statements Required:** No later than
7 **March 3, 2021**, the parties shall submit directly to Magistrate Judge Lopez's chambers via
8 email confidential settlement statements no more than ten (10) pages in length.² **These**
9 **confidential statements shall not be filed or served on opposing counsel.** Each party's
10 confidential statement must set forth the party's statement of the case, identify controlling
11 legal issues, concisely set out issues of liability and damages, and shall set forth the party's
12 settlement position, including any previous settlement negotiations, mediation sessions, or
13 mediation efforts, the last offer or demand made by that party, and a separate statement of
14 the offer or demand the party is prepared to make at the settlement conference. If a specific
15 demand or offer for settlement cannot be made at the time the brief is submitted, then the
16 reasons therefore must be stated along with a statement as to when the party will be in a
17 position to state a demand or make an offer. General statements that a party will "negotiate
18 in good faith" is not a specific demand or offer contemplated by this Order. It is assumed
19 that all parties will negotiate in good faith.

20 d. **Requests to Continue a Mandatory Settlement Conference:** Any
21 request to continue the Mandatory Settlement Conference or request for relief from any of
22 the provisions or requirements of this Order must be sought by a **written joint motion or**
23 **ex parte application.** The application must (1) be supported by a declaration of counsel
24 setting forth the reasons and justifications for the relief requested, (2) confirm compliance
25 with Civil Local Rule 83.3(h), and (3) report the position of opposing counsel or any
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28 ² Email to efile_Lopez@casd.uscourts.gov.

1 unrepresented parties subject to the Order. **Absent good cause, requests for continuances**
2 **will not be considered unless submitted in writing no fewer than (7) days prior to the**
3 **scheduled conference. If the case is settled in its entirety before the scheduled date of**
4 **the conference, counsel and any unrepresented parties must still appear in person,**
5 **unless a written joint notice confirming the complete settlement of the case is filed no**
6 **fewer than twenty-four (24) hours before the scheduled conference.**

7 2. The Court will use its official Zoom video conferencing account to hold the
8 settlement conference. The Zoom software is available on computers through a download
9 on the Zoom website (<https://zoom.us/meetings>) or on mobile devices through the
10 installation of a free app (Zoom Cloud Meetings).³ Joining a Zoom conference does not
11 require creating a Zoom account, but it does require downloading the .exe file (if using a
12 computer) or the app (if using a mobile device). Participants are encouraged to create an
13 account, install Zoom, and familiarize themselves with Zoom in advance of the settlement
14 conference.⁴ There is a cost-free option for creating a Zoom account.

15 3. Prior to the start of the settlement conference, the Court will email each
16 participant an invitation to join a Zoom video conference. Participants shall join the video
17 conference by following the ZoomGov Meeting hyperlink in the invitation. **Participants**
18 **who do not have Zoom already installed on their device when they click on the**
19 **ZoomGov Meeting hyperlink will be prompted to download and install Zoom before**
20 **proceeding.** Zoom may then prompt participants to enter the password included in the
21 invitation. All participants will be placed in a waiting room until the settlement conference
22 begins.

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26 ³ Participants should use a device with a camera to fully participate in the video conference.
27 Participants should also use a device with a reliable internet connection.

28 ⁴ For help getting started with Zoom, visit: <https://support.zoom.us/hc/en-us/categories/200101697-Getting-Started> .

1 4. Each participant should plan to join the Zoom video conference **at least five**
2 **minutes before** the start of the settlement conference to ensure that the settlement
3 conference begins promptly at **10:00 a.m. PST**. The Zoom email invitation may indicate
4 an earlier start time, but the conference will begin at the Court-scheduled time.

5 5. The Court will begin the settlement conference with all participants joined
6 together in a main session. After an initial discussion in the main session, the Court will
7 divide participants into separate, confidential sessions, which Zoom calls Breakout
8 Rooms.⁵ In a Breakout Room, the Court will be able to communicate privately with
9 participants from a single party. Breakout Rooms will also allow parties and counsel to
10 communicate confidentially without the Court.

11 6. No later than **March 3, 2021**, unrepresented parties and counsel for each party
12 shall send a participants statement to the Court at efile_Lopez@casd.uscourts.gov.⁶ **These**
13 **statements shall not be filed or served on opposing counsel.** The statements must contain
14 the following:

- 15 a. The **name and title of each MSC participant**, including all parties and
16 party representatives with full settlement authority, claims adjusters for
17 insured parties, and the principal attorney(s) responsible for the
18 litigation;
- 19 b. An **email address for each MSC participant** to receive the Zoom
20 video conference invitation;
- 21 c. A **single telephone number where all MSC participants for that**
22 **party** may be reached so that if technical difficulties arise, the Court
23 will be able to proceed telephonically instead of by video conference.

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26 ⁵ For more information on what to expect when participating in a Zoom Breakout Room,
27 visit: <https://support.zoom.us/hc/en-us/articles/115005769646>.

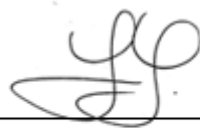
28 ⁶ The participants' information may be included in the parties' confidential MSC
statements.

1 Counsel may provide a conference number and appropriate call-in
2 information, including an access code, where all counsel and parties or
3 party representatives for that side may be reached.

4 7. All participants shall display the same level of professionalism during the
5 settlement conference and be prepared to devote their full attention to the settlement
6 conference as if they were attending in person. Because Zoom may quickly deplete the
7 battery of a participant's device, each participant should ensure that their device is plugged
8 in or that a charging cable is readily available during the video conference. Participants
9 should also participate in the conference in a location that allows for privacy and does not
10 contain background noise that will disrupt the conference.

11 **IT IS SO ORDERED.**

12 Dated: January 21, 2021



Honorable Linda Lopez
United States Magistrate Judge