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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

MICHAEL KULL,  
  
Plaintiff,  
  
v.  
  
HOME DEPOT U.S.A., INC.,  
  
Defendant.

Case No.: 18-cv-00933-JM (JLB)

**ORDER SETTING FURTHER  
MANDATORY SETTLEMENT  
CONFERENCE**

The Court hereby **SETS** a further Mandatory Settlement Conference (“MSC”) in this case. The MSC shall be conducted on **August 14, 2019** at **1:45 p.m.** in the chambers of **Magistrate Judge Jill L. Burkhardt**, Edward J. Schwartz U.S. Courthouse, 221 West Broadway, Suite 5140, San Diego, California 92101. Counsel or any party representing himself or herself shall submit confidential settlement briefs directly to chambers by **August 5, 2019**. All parties are ordered to read and to fully comply with Judge Burkhardt’s Civil Chamber Rules.

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1 The **confidential** settlement statements should be lodged by e-mail to  
2 efile\_Burkhardt@casd.uscourts.gov. Each party's settlement statement shall concisely set  
3 forth the following: (1) the party's statement of the case; (2) the controlling legal issues;  
4 (3) issues of liability and damages; (4) the party's settlement position, including the last  
5 offer or demand made by that party; (5) a separate statement of the offer or demand the  
6 party is prepared to make at the settlement conference; and (6) a **list of all attorney and**  
7 **non-attorney conference attendees** for that side, including the name(s) and  
8 title(s)/position(s) of the party/party representative(s) who will attend and have settlement  
9 authority at the conference. If exhibits are attached and the total submission amounts to  
10 more than 20 pages, a hard copy must also be delivered directly to Magistrate Judge  
11 Burkhardt's chambers. **Settlement conference statements shall not be filed with the**  
12 **Clerk of the Court. Settlement conference statements may be exchanged**  
13 **confidentially with opposing counsel within the parties' discretion.**

14 Pursuant to Civil Local Rule 16.3, all party representatives and claims adjusters for  
15 insured defendants with full and unlimited authority<sup>1</sup> to negotiate and enter into a binding  
16 settlement, as well as the principal attorney(s) responsible for the litigation, must be present  
17 and legally and factually prepared to discuss and resolve the case at the mandatory  
18 settlement conference. In the case of an entity, an authorized representative of the entity  
19 who is not retained outside counsel must be present and must have discretionary authority  
20 to commit the entity to pay an amount up to the amount of the Plaintiff's prayer (excluding  
21 punitive damages prayers). The purpose of this requirement is to have representatives  
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25 <sup>1</sup> "Full authority to settle" means that the individuals at the settlement conference must be authorized  
26 to fully explore settlement options and to agree at that time to any settlement terms acceptable to the  
27 parties. *Heileman Brewing Co., Inc. v. Joseph Oat Corp.*, 871 F.2d 648 (7th Cir. 1989). The person needs  
28 to have "unfettered discretion and authority" to change the settlement position of a party. *Pitman v. 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. *Id.* at 486. A limited or a sum certain of authority is not adequate. *Nick v. Morgan's Foods, Inc.*, 270 F.3d 590, 595-97 (8th Cir. 2001).

1 present who can settle the case during the course of the conference without consulting a  
2 superior.

3 Failure to attend the conference or obtain proper excuse will be considered grounds  
4 for sanctions.

5 **IT IS SO ORDERED.**

6 Dated: July 26, 2019

7   
8 Hon. Jill L. Burkhardt  
9 United States Magistrate Judge

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