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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

JAMES E. BRYANT,)	Civil No.08cv1165 MJL (PCL)
)	
Plaintiff,)	
)	AMENDED NOTICE AND ORDER FOR
v.)	EARLY NEUTRAL EVALUATION
)	CONFERENCE
M. BAIREs, Correctional)	
Lieutenant,)	
)	
Defendant.)	
_____)	

A Notice and Order for Early Neutral Evaluation Conference was issued by the Court on July 1, 2009. (Doc. No. 18.) Pursuant to the Order, an Early Neutral Evaluation Conference (ENE) was set for July 16, 2009. (Id.) The Court hereby vacates the ENE date set forth in the Scheduling Order of July 1, 2009 and amends the Notice and Order for Early Neutral Evaluation Conference as follows:

IT IS HEREBY ORDERED that an Early Neutral Evaluation of your case will be held on August 18, 2009, at 10:30 a.m. before United States Magistrate Judge Peter C. Lewis, United States Courthouse, 2003 W. Adams Ave., El Centro, California. **This conference shall be telephonic.** Defense counsel must initiate this conference by placing a call to chambers at (760) 353-4227 on the date and time of

1 this conference.

2 Pursuant to Rule 16.1(c) of the Local Rules of the United
3 States District Court for the Southern District of California, both
4 counsel and the parties who have full and unlimited authority¹ to
5 negotiate and enter into a binding settlement shall appear by
6 telephone at the conference and shall be prepared to discuss the
7 claims, defenses and damages.

8 Unless there are **extraordinary circumstances**, persons
9 required to attend the conference pursuant to this Order shall not
10 be excused from attendance. Requests for excuse from attendance for
11 extraordinary circumstances shall be made in writing at least 48
12 hours prior to the conference. Where the suit involves the United
13 States or one of its agencies, only counsel for the United States
14 with full settlement authority need appear. All conference
15 discussions will be informal, off the record, privileged and
16 confidential.

17 The parties may, but are not required to, submit a short
18 Early Neutral Evaluation Conference Statement about the case on a
19 confidential basis. Such statement may be submitted to chambers by
20 mail or facsimile at least seven days prior to the scheduled date of
21 the conference.

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¹
24 "Full authority to settle" means that the individuals at the
25 settlement conference must be authorized to fully explore settlement
26 options and to agree at that time to any settlement terms acceptable
27 to the parties. Heileman Brewing Co., Inc. v. Joseph Oat Corp., 871
28 F.2d 648 (7th Cir. 1989). The person needs to have "unfettered
discretion and authority" to change the settlement position of a
party. Pitman v. Brinker Intl., Inc., 216 F.R.D. 481, 485-486 (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 In the event the case does not settle at the Early Neutral
2 Evaluation Conference, the parties shall also be prepared to discuss
3 the following matters at the conclusion of the conference.

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

7 2. The scheduling of the Federal Rule of Civil Procedure
8 26(f) conference;

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

11 4. The scheduling of a Case Management Conference pursuant
12 to Federal Rule of Civil Procedure 16(b).

13 The Court will issue an appropriate order addressing these
14 issues and setting dates as appropriate.

15 **Defense counsel shall notify Plaintiff of the date and time**
16 **of the Early Neutral Evaluation Conference.** Questions regarding
17 this case may be directed to the Magistrate Judge's law clerk at
18 (760) 353-1271.

19 DATED: July 8, 2009

20 
21 Peter C. Lewis
22 U.S. Magistrate Judge
23 United States District Court

24 cc: The Honorable James M. Lorenz
25 All Parties and Counsel of Record
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