UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

IN THE MATTER OF:)
)
ORDER ESTABLISHING   )   GENERAL ORDER
PRISONER SETTLEMENT   )   NO.   09-09
PROGRAM   )
_____)

On December 11, 2009, the Court approved the establishment of a Prisoner

Settlement Program, effective January 1, 2010.   Such program shall be

implemented at Richard J. Donovan State Correctional Facility and any other

institutions as needed within the discretion of the Court.

Accordingly, this Order is hereby enacted as follows:

1. SCOPE AND PURPOSE OF THE PROGRAM

1.1   Scope. This Order establishes rules for the elective referral of certain

prisoner civil rights cases to United States Magistrate Judge Victor E. Bianchini for

settlement proceedings at various California state prisons.

      1.2   <u>Purpose</u>. The Court recognizes that full, formal litigation of claims can impose large burdens on parties and can delay resolution of disputes for considerable periods of time. The purpose of the Prisoner Settlement Program is to help parties to prisoner civil rights cases filed in this district determine whether they can voluntarily come to a quicker, less expensive and potentially more satisfying alternative to continuing litigation without impairing the quality of justice or the right to trial.

2.   <u>ADMINISTRATION</u>

      The Prisoner Settlement Program shall be coordinated by the Clerk's Office ADR Department. Every six months, Magistrate Judge Bianchini, with Central District administrative support, shall submit a report to the Court's Alternative Dispute Resolution Committee that identifies, by case number, each case referred to the Prisoner Settlement Program in which he has hosted settlement discussions. Such report shall indicate the outcome of the settlement discussions and the current status of the case, while maintaining the confidentiality of the proceedings consistent with Paragraph 6 of this Order. Any case settled through this program shall be immediately reported to the ADR Department.

3.   <u>REFERRAL OF CASES TO THE PRISONER SETTLEMENT PROGRAM</u>

3.1   <u>Referral to the Prisoner Settlement Program</u>. At any time after all parties have been served, any party may request that either the magistrate judge or the district judge to whom the case is assigned refer the case to the Prisoner Settlement Program; a judge may also issue such an order on his or her own motion. After providing all parties with an opportunity to be heard, as described below in Section 3.2, the assigned magistrate or district judge, in his or her discretion, may refer a case to the program by means of a written order that specifies the deadline by which the settlement process must be completed. In the order, the judge may stay other activity in the case for that period. The courtroom deputy clerk shall send a copy of the referral order to the ADR Department. A sample referral order is attached as Exhibit A.

3.2.   <u>Submission of Confidential Statements Prior to Referral</u>. At such time as the assigned magistrate or district judge determines that a case may be appropriate for referral to the Prisoner Settlement Program, the judge may file an Order Requesting Confidential Statements Re: Case Selection for Prisoner Settlement Program, a sample of which is attached as Exhibit B. The courtroom deputy clerk shall send a copy of the order to the ADR Department.

The parties shall have ten (10) days from the filing of such request to submit a statement to the ADR Department for review by the Manager of ADR

Programs. Such statement is not to be filed nor served on the opposing party and

may be submitted to the ADR Department by mail, fax or personal delivery. Based

on a review of the information submitted, the Manager of ADR Programs shall

make a recommendation to the assigned district or magistrate judge regarding the

appropriateness of the case for referral to the Prisoner Settlement Program.

3.3   Effect of Referral. Unless otherwise ordered by the Court, a referral

to the Prisoner Settlement Program will not limit any party's right to discovery,

alter scheduled pre-trial or trial dates or otherwise affect the operation of the

Federal Rules of Civil Procedure or any rule of this Court.

4.   SCHEDULING OF SETTLEMENT PROCEEDINGS

Upon receiving an order of referral, Magistrate Judge Bianchini shall

schedule a settlement proceeding with all interested parties and/or their

representatives. The settlement proceeding shall be completed within ninety (90)

days of the date of the referral order or by another deadline specified in the referral

order.

5.   MANDATORY APPEARANCE REQUIREMENT

5.1   General Appearance Requirement.

The plaintiff and a Deputy Attorney General shall attend the

settlement proceeding in person and be prepared to discuss the case claims,

defenses and damages.   The appearance of a representative of the California Department of Corrections and Rehabilitation ("CDCR") is strongly advised. The Deputy Attorney General shall have the authority necessary to enter into a binding settlement on Defendants' behalf, or must, for the duration of the settlement proceeding, have immediate access to the individual with settlement authority. The failure of any party to comply with this section may result in the immediate imposition of sanctions.

    5.2.   Discretionary Modification of Appearance Requirement.

Magistrate Judge Bianchini shall have the authority to alter the requirements of this section based on the unique circumstances of a particular case. Magistrate Judge Bianchini shall further have the authority to recess a settlement proceeding either due to the absence of, or lack of immediate access to, an individual whom he, in his sole discretion, determines must either appear in person, or participate telephonically, in order for meaningful settlement discussions to proceed.

Magistrate Judge Bianchini may continue the settlement proceeding to a future date and, thereafter, require the in person or telephonic attendance of any essential individual, including, but not limited to, a representative of the CDCR.

    5.3.   Consent by Individual Defendants Required.

As to any defendant sued in an individual capacity, the Deputy Attorney General and/or the CDCR, no later than one week prior to the settlement proceeding, shall obtain the consent of such defendant to enter into a binding settlement upon such terms as the Deputy Attorney General and/or the CDCR, may, in their sole discretion, agree to at the settlement proceeding. Magistrate Judge Bianchini may cancel or continue any scheduled settlement proceeding which does not comply with this provision.

6.   CONFIDENTIALITY OF SETTLEMENT PROCEEDINGS

All settlement proceedings shall be confidential and no statement made therein, including, but not limited to, the identity of any party perceived to be uncooperative or unwilling to settle, shall be disclosed to the assigned magistrate or district judge or to anyone else who is not a party to the case. Magistrate Judge Bianchini shall not disclose to either of the assigned judges or to anyone else who has not been a party to the settlement proceedings any of the parties' settlement communications or any views he may have formed about the merits of the issues in dispute. Statements made during settlement proceedings held pursuant to this Order shall not be admissible in any subsequent administrative or judicial proceedings. No part of the settlement proceeding shall be reported, or otherwise

recorded, without the consent of the parties, except for any memorialization of a settlement.

7.   <u>REPORT THAT SETTLEMENT PROCEEDINGS ARE CONCLUDED</u>

Within ten (10) days after the conclusion of settlement proceedings held pursuant to this Order, Magistrate Judge Bianchini shall file with the Court a "Report of Prisoner Settlement Proceeding" in the form attached hereto as Exhibit C and shall mail copies to the courtroom deputy clerks of the assigned district and magistrate judges, all interested parties and the Court's ADR Department.

IT IS SO ORDERED.

Dated this 29th day of December, 2009

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

	CASE NUMBER
Plaintiff(s)	
v.	
Defendant(s).	**ORDER REQUESTING CONFIDENTIAL STATEMENTS RE: CASE SELECTION FOR PRISONER SETTLEMENT PROGRAM**

IT IS HEREBY ORDERED THAT:

The parties to this action shall each, no later than ten (10) days from the date of this Order, submit confidential statements as described below. The confidential statements shall not be served on the opposing party or filed with the court, but instead, delivered by mail, fax or personal delivery to the ADR Department at the address or fax number below and marked "Confidential." Such statements shall be limited to five (5) pages and shall indicate the following:

1) the party's assessment of whether the instant action is of the type that would benefit from a settlement proceeding with a magistrate judge;

2) the party's assessment of when a settlement proceeding would be most productive in this matter;

3) the party's assessment of what factors, if any, will prevent settlement of this matter prior to trial; and

4) other: _____.

Should the Court determine this action to be appropriate for referral to the Prisoner Settlement Program, the Court will issue an Order Referring Case to Prisoner Settlement Program (Form ADR ___.)

Settlement proceedings will be held at Richard J. Donovan State Correctional Facility in San Diego, California ("RJD"). Plaintiff will be transported to RJD in advance of the settlement proceeding and will be returned to his designated facility upon completion of the proceeding. Plaintiff will at all times remain subject to the confinement imposed upon him by the State of California.

IT IS SO ORDERED.

DATED: _____
United States Magistrate Judge/United States District Judge

cc: ADR Department
United States District Court
312 North Spring Street, Room 909
Los Angeles, CA 90012
Fax (213) 894-5084

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

		CASE NUMBER
Plaintiff(s)		
v.		
		ORDER REFERRING CASE TO
Defendant(s).		**PRISONER SETTLEMENT PROGRAM**

IT IS HEREBY ORDERED THAT:

Plaintiff, a California prisoner confined at _____ State Prison, has brought the above-referenced action.

Good cause appearing, the instant case is hereby referred to Magistrate Judge Victor E. Bianchini for settlement proceedings pursuant to the Prisoner Settlement Program. The proceedings shall take place ☐ no later than _____ **or** ☐ within 90 days of the date this order is filed. Magistrate Judge Bianchini shall coordinate a time and date for a settlement proceeding with the plaintiff, the Office of the California Attorney General and the California Department of Corrections and Rehabilitation and/or their representatives and, within ten (10) days after the conclusion of the settlement proceedings, file with the court a proceeding report.

For the foregoing reasons and for good cause shown,
1. This matter is referred to the Prisoner Settlement Program;
2. The briefing schedule on dispositive motions is hereby stayed;
3. The clerk shall deliver the court file or a copy thereof, including a copy of this order, to Magistrate Judge Bianchini in San Diego, California; and
4. Settlement proceedings will be held at Richard J. Donovan State Correctional Facility in San Diego, California ("RJD"). A separate transport order will be issued. Plaintiff will be transported to RJD in advance of the settlement proceeding and will be returned to his designated facility upon completion of the proceeding. Plaintiff will at all times remain subject to the confinement imposed upon him by the State of California.

IT IS SO ORDERED.

DATED: _____

_____
United States District Judge/United States Magistrate Judge

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

	CASE NUMBER
Plaintiff(s)	
v.	
Defendant(s).	**REPORT OF PRISONER SETTLEMENT PROCEEDING**

A settlement proceeding was held on _____ and the results of that proceeding are indicated below:

1. The following individuals, parties, and/or representatives participated in the proceeding, each possessing the requisite settlement authority:

    ☐ Plaintiff

    ☐ Warden or warden's representative

    ☐ Office of the California Attorney General

    ☐ Other: _____

2. The following individuals, parties, and/or representatives did not appear:

    _____

    _____

    _____

3. The outcome of the proceeding was:

    ☐ The case has been completely settled. The parties agreed that a proposed stipulated order for dismissal of this case will be filed with the Court on _____.

☐ The case has been partially resolved and, on or before _____, counsel for defendants shall file a joint stipulation specifying those claims which have been resolved and those that remain to be resolved by the Court.

☐ The parties agree to an additional follow-up settlement proceeding on _____.

☐ The parties are unable to reach an agreement at this time.

Dated: _____

_____
Victor E. Bianchini
United States Magistrate Judge