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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

| | | |
|------------------------|---|--------------------------------------|
| TROAS V. BARNETT, |) | Case No.: 1:05-cv-01022-BAM PC |
| |) | |
| Plaintiff, |) | ORDER GRANTING PLAINTIFF’S MOTION TO |
| |) | WITHDRAW THE RULE 59 MOTION IN THE |
| v. |) | DISTRICT COURT |
| |) | |
| MARTIN GAMBOA, et al., |) | (ECF No. 306) |
| |) | |
| Defendants. |) | |
| |) | |
| |) | |

Plaintiff Troas V. Barnett (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this action. On January 22, 2013, a jury trial was held in this matter against Defendants Martin Gamboa, Angel Duran and Manuel Torres (“Defendants”). On January 24, 2013, the jury rendered a special verdict in favor of the Defendants, and judgment was entered in their favor on January 30, 2013. (ECF Nos. 287, 289.)

On February 6, 2013, Plaintiff filed a notice of appeal, which was processed to the Ninth Circuit Court of Appeals. (ECF Nos. 290, 292.) Thereafter, on February 11, 2013, Plaintiff moved for a new trial pursuant to Federal Rule of Civil Procedure 59. (ECF No. 295.) Defendants filed an opposition to the motion for new trial on February 25, 2013. (ECF No. 298.) Plaintiff replied on March 8, 2013. (ECF No. 301.)

On April 11, 2013, during the pendency of Plaintiff’s motion for a new trial, the Ninth Circuit Court of Appeals issued an order indicating that Plaintiff’s appellate proceedings would be held in

1 abeyance pending the district court's resolution of Plaintiff's motion for a new trial. (ECF No. 305.)
2 Following the Ninth Circuit's order, Plaintiff filed the instant motion to withdraw his Rule 59 motion
3 on April 22, 2013.

4 Plaintiff's motion to withdraw his Rule 59 motion is GRANTED. The Clerk of the Court is
5 therefore directed to terminate Plaintiff's Rule 59 motion filed on February 11, 2013.

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IT IS SO ORDERED.

Dated: May 9, 2013

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE