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

MAXIMILIAN MONCLOVA-CHAVEZ,  
Plaintiff,  
v.  
McEACHERN, et al.,  
Defendants.

1:08-cv-00076-AWI-BAM (PC)  
  
ORDER REQUIRING PLAINTIFF’S  
COUNSEL OF RECORD TO RESPOND TO  
PLAINTIFF’S MOTION FOR WRIT OF  
EXECUTION  
  
(ECF No. 191)  
  
**TWENTY-ONE (21) DAY DEADLINE**

Plaintiff Maximilian Monclova-Chavez (“Plaintiff”) is a federal prisoner who proceeded with counsel and in forma pauperis in this civil rights action pursuant to Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics, 403 U.S. 388 (1971). This action proceeded against Defendants Miller, White, McEachern, and Tincher.

On July 30, 2013, following a stipulation of Plaintiff and Defendants White and Miller, judgment was entered in the amount of \$10,000, inclusive of costs and fees, in favor of Plaintiff and against Defendants White and Miller, jointly and severally, without an admission of liability. (ECF Nos. 168, 169.) On August 28, 2013, pursuant to a further stipulation of Plaintiff and Defendant Tincher, Defendant Tincher was dismissed, with prejudice. (ECF Nos. 171, 172.) Thereafter, only Defendant McEachern remained in this action.

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1 Defendant McEachern was served with the summons and complaint on August 13, 2009.  
2 (ECF No. 27.) Defendant did not file an answer. The Clerk's Office entered default on August  
3 23, 2010, as per Plaintiff's request. (ECF Nos. 55–56.) Plaintiff filed a motion for default  
4 judgment and, in response to the Court's order, supplemental briefing regarding the amount of  
5 damages. (ECF Nos. 182, 184, 185.) Despite being served with the motion for default judgment  
6 and supplemental briefing, Defendant McEachern did not file a motion to set aside the default or  
7 respond to the motion. Accordingly, the Court issued findings and recommendations  
8 recommending that Plaintiff's motion for default judgment in favor of Plaintiff and against  
9 Defendant McEachern be granted in part. (ECF No. 186.) The assigned district judge adopted  
10 the findings and recommendations on February 3, 2015, and entered judgment in favor of  
11 Plaintiff and against Defendant McEachern. (ECF No. 187.) Damages were awarded in the total  
12 amount of \$12,000.00, including compensatory damages in the amount of \$7,000.00 and punitive  
13 damages in the amount of \$5,000.00. (Id.)

14 Following entry of judgment, Plaintiff filed, pro se, two notices regarding the judgment on  
15 January 23, 2017. (ECF Nos. 189, 190.) As it was unclear whether Plaintiff remained  
16 represented by counsel at the time, the notices went unanswered by the Court.

17 Currently before the Court is Plaintiff's motion for writ of execution, filed pro se on  
18 February 2, 2018. (ECF No. 191.) No responses have been filed.

19 In his motion, Plaintiff requests assistance from the Court in collecting money damages  
20 awarded to him pursuant to the Court's judgments against Defendants McEachern, Miller, and  
21 White. Plaintiff states that he has not received any of the total \$22,000.00 judgment, and  
22 therefore requests that the Court place a levy on the Defendants' bank accounts, or garnish their  
23 pay checks. Plaintiff further states that he has made several attempts to contact his attorney,  
24 Elizabeth Alexander, including by letter sent from the Embassy of Mexico. Plaintiff has not  
25 received a reply from Ms. Alexander. (Id.)

26 Ordinarily, the Court would strike a motion filed pro se by a party represented by counsel,  
27 for failing to comply with Federal Rule of Civil Procedure 11(a). Rule 11 requires that every  
28 pleading, written motion, and other paper must be signed by at least one attorney of record in the

1 attorney's name, or by a party personally if the party is unrepresented. Fed. R. Civ. P. 11(a). At  
2 this time, Ms. Alexander remains listed on the Court's docket, along with Catherine Campbell, as  
3 Plaintiff's attorneys of record in this action.

4 However, Plaintiff's motion has raised a question regarding his continued representation.  
5 Therefore, the Court finds it appropriate to direct Ms. Alexander and Ms. Campbell, who will be  
6 informed of this order through the Court's CM/ECF notification system by email, to file a  
7 response to Plaintiff's motion. Counsel should specifically address Plaintiff's allegations  
8 regarding his attempts to contact counsel to discuss this action.

9 Accordingly, it is HEREBY ORDERED that Plaintiff's counsel of record, Elizabeth  
10 Alexander and Catherine Campbell, shall file a response to Plaintiff's motion for writ of  
11 execution, (ECF No. 191), as discussed herein, within **twenty-one (21) days** from the date of  
12 service of this order. Any request for an extension of time to comply with this order will require  
13 a showing of good cause.

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IT IS SO ORDERED.

Dated: March 7, 2018

/s/ Barbara A. McAuliffe  
UNITED STATES MAGISTRATE JUDGE