1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 9 EASTERN DISTRICT OF CALIFORNIA 10 11 GARRISON S. JOHNSON, Case No.: 1:10-cv-00582-AWI-SAB (PC) 12 Plaintiff, ORDER GRANTING PLAINTIFF'S MOTION TO RETAIN JURISDICTION OVER ACTION UNTIL 13 v. DISPOSITIONAL DOCUMENTS FILED AND DENYING PLAINTIFF'S MOTION TO 14 CDCR, et al., WITHDRAW STIPULATION TO VOLUNTARILY **DISMISS ACTION** 15 Defendants. [ECF Nos. 91, 92] 16 17 Plaintiff Garrison S. Johnson filed the instant civil rights action pursuant to 42 U.S.C. § 1983. Now pending before the Court is Plaintiff's motions for the Court to retain jurisdiction over the 18 19 action until the dispositional documents are filed and request to withdraw stipulation to voluntarily 20 dismiss the action. 21 On October 16, 2014, Magistrate Judge Kendall J. Newman conducted a settlement conference 22 in this case, and the parties reached a verbal settlement agreement. (ECF No. 90.) The Court read the 23 terms of the settlement on the record, and all parties agreed to the terms as stated. (<u>Id.</u>) 24 Plaintiff's contention that he is entitled to attorney's fee under the Americans with Disabilities Act (ADA) and Rehabilitation Act (RA) is without merit. Plaintiff represented himself in this action. 25 Simply stated, because Plaintiff is not represented by an attorney, he is not entitled to recover 26 27 attorney's fees in this action, even under the ADA and/or RA. See, e.g., Rhoads v. F.D.I.C., 276

F.Supp.2d 532, 541 (D. Md. 2003) (attorney fees not authorized to pro se litigant under fee-shifting

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provisions of ADA) (citing <u>Bond v. Blum</u>, 317 F.3d 385, 398-399 (4th Cir. 2003); <u>see also Gonzales v. Kangas</u>, 814 F.2d 1411, 1412 (9th Cir. 1987) (no attorney fees for pro se litigant under 42 U.S.C. § 1988); <u>Smith v. DeBartoli</u>, 769 F.2d 451, 452 (7th Cir. 1985) (same); <u>Owens-El v. Robinson</u>, 694 F.2d 941, 943 (3d Cir. 1982) (same); <u>Lovell v. Snow</u>, 637 F.2d 170 (1st Cir. 1981) (same); <u>Cofield v. City of Atlanta</u>, 648 F.2d 986, 987 (5th Cir. 1981) (same); <u>Davis v. Paratt</u>, 608 F.2d 717, 718 (8th Cir. 1979) (same). Accordingly, there is no basis to withdraw the voluntary dismissal, as stipulated, based on Plaintiff's mistaken belief that he is entitled to attorney's fees under an alleged ADA and RA claim, and Plaintiff's motion must be DENIED. The Court will retain jurisdiction over this action until the dispositional documents are filed as directed by Magistrate Judge Newman. (ECF No. 90.)

Based on the foregoing, IT IS HEREBY ORDERED that Plaintiff's motion to withdraw stipulation for voluntary dismissal is DENIED, and the Court retains jurisdiction over the action until the dispositional documents are filed with the Court.

IT IS SO ORDERED.

Dated: **November 19, 2014**

UNITED STATES MAGISTRATE JUDGE

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