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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

KEVIN D. BRYANT,
Plaintiff,
v.
GALLAGHER, et al.,
Defendants.

Case No. 1:11-cv-00446-BAM (PC)
ORDER GRANTING JOINT MOTION TO
VACATE JURY VERDICT IN
ACCORDANCE WITH SETTLEMENT
(ECF No. 381)
ORDER DENYING PLAINTIFF’S MOTION
FOR ATTORNEY FEES AS MOOT
(ECF NO. 377)

Plaintiff Kevin Darnell Bryant (“Plaintiff”), a state prisoner proceeding in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983, filed this action on March 17, 2011. On May 15, 2017, the case proceeded to trial on Plaintiff’s claims against Defendant Romero for deliberate indifference to serious medical needs in violation of the Eighth Amendment, and against Defendants Gallagher and Romero for conspiracy, retaliation in violation of the First Amendment, and failure to protect in violation of the Eighth Amendment.

On May 18, 2017, the jury found the following: (1) Defendant Gallagher liable for retaliation, conspiracy, and failure to intervene in the amount of \$45,000; and (2) Defendant Romero liable for retaliation, conspiracy, failure to intervene, and deliberate indifference in the amount of \$55,000. The jury also awarded Plaintiff \$15,000 in punitive damages against each defendant. The total amount of damages awarded was \$130,000.

On July 17, 2017, the parties filed a notice of settlement and request to file dispositional documents within sixty days. (ECF No. 379.) The parties stated they had reached a settlement

1 agreement involving this matter and also Bryant v. Romero (E.D. Cal. No. 1:12-cv-2074-DAD-
2 GSA) (“Romero”). In addition, the settlement agreement would resolve all pending matters
3 before the Court, including attorney’s fees and costs. (ECF No. 379.) The Court granted the
4 motion. (ECF No. 380.)

5 Currently before the Court is the parties’ joint motion to vacate the jury verdict in
6 accordance with settlement, pursuant to Federal Rule of Civil Procedure 60(b). The parties
7 confirm that they have reached a global settlement including this lawsuit and Romero. In
8 Romero, both Defendants moved for summary judgment, and on July 17, 2017, the magistrate
9 judge issued findings and recommendations recommending that Defendant Waddle’s motion be
10 denied. (Romero, Doc. Nos. 92, 96, 208.) The parties argue that without the settlement, Romero
11 would likely have gone forward to trial regardless of the outcome of the other pending motion for
12 summary judgment. Thus, the parties agreed to a global settlement sum of \$420,000, contingent
13 on the filing of the instant motion to set aside the verdicts and the judgment. (ECF No. 381.)

14 For the factual and legal reasons stated in the parties’ joint brief, their motion is granted.
15 Federal Rule of Civil Procedure 60(b) provides that a court “may relieve a party or its legal
16 representative from a final judgment, order, or proceeding” where “the judgment has been
17 satisfied, released or discharged,” where “applying it prospectively is no longer equitable,” or for
18 “any other reason that justifies relief.” Fed. R. Civ. P. 60(b)(5)-(6). The Ninth Circuit has held
19 that a district court must balance the equities when asked to vacate a judgment or order, and
20 extraordinary or exceptional circumstances are not required for vacatur. Am. Games, Inc. v.
21 Trade Prods., Inc., 142 F.3d 1164, 1168 (9th Cir. 1998). Upon balance, the Court finds that the
22 conservation of judicial and private resources, as well as the parties’ desire to final resolution of
23 multiple actions obtain through a settlement, outweighs the minimal harm to the public interests.
24 Accordingly, the Court grants the parties’ motion to vacate the jury verdict.

25 Accordingly, it is HEREBY ORDERED as follows:

- 26 1. The parties’ joint motion to vacate the jury verdict, (ECF No. 381) is GRANTED;
- 27 2. Plaintiff’s motion for attorney fees, (ECF No. 377) is DENIED as moot;
- 28 3. The May 18, 2017 jury verdicts, (ECF Nos. 363, 364), are VACATED;

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4. The May 19, 2017 judgment, (ECF No. 367), is VACATED; and

5. This case shall remain closed.

IT IS SO ORDERED.

Dated: September 15, 2017

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE