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5 **UNITED STATES DISTRICT COURT**
6 **EASTERN DISTRICT OF CALIFORNIA**
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8 **ROBERTO M. GARCIA, JR.,**

9 **Plaintiff**

10 **v.**

11 **MATTHEW M. JUAREZ, JR.,**

12 **Defendant**
13

CASE NO. 1:12-CV-0750 AWI EPG (PC)

**ORDER FOR DEFENDANT TO FILE
MOTION REGARDING SETTLEMENT**

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15 On April 24, 2017, the parties held a settlement conference before Magistrate Judge
16 Oberto. See Doc. Nos. 153, 156. The first minute entry on April 24, 2017 indicated that the case
17 had not settled. See Doc. No. 153.

18 The same day, Defendant filed a request for clarification of the minute entry. See Doc. No.
19 154. In pertinent part, the request states: “The defendant’s position at the settlement conference is
20 that the case had settled and the matter should be completely dismissed. Plaintiff disputed a term
21 of the settlement regarding disbursement of the settlement proceeds giving rise to the settlement
22 conference request.” Id. Defendant was concerned that the Magistrate Judge was taking a
23 position on the settlement issue. See id.

24 After receipt of Defendant’s request, corrected minutes were issued. See Doc. No. 156.
25 The corrected minutes simply states that a settlement conference occurred. See id.

26 On April 25, 2017, Magistrate Judge Oberto issued an order that vacated the first minute
27 entry and expressly stated that she takes no position as to whether an enforceable settlement
28 agreement exists. See Doc. No. 155.

1 Given the request for clarification, the Court understands Defendant to be taking the
2 position that there is an enforceable settlement agreement in this case. District courts have the
3 power to enforce an agreement to settle cases that are pending before them. Callie v. Near, 829
4 F.2d 888, 890 (9th Cir. 1987). If Defendant believes that there is an enforceable settlement
5 agreement, then that issue should be decided before trial in this matter proceeds. Given the
6 ramifications of a settlement agreement, the Court believes that the most efficient use of time and
7 resources would be for the Defendant to file an appropriate motion to enforce the settlement
8 agreement.

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10 Accordingly, IT IS HEREBY ORDERED that:

- 11 1. On or by May 10, 2017, Defendant shall file a motion to enforce settlement;¹
- 12 2. On or by May 17, 2017, Plaintiff shall file a response/opposition;
- 13 3. On or by May 24, 2017, Defendant may file a reply; and
- 14 4. If, after reviewing the full briefing and evidence from the parties, the Court determines that
15 a hearing is necessary, it will set a hearing at that time.

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17 IT IS SO ORDERED.

18 Dated: April 26, 2017



19 SENIOR DISTRICT JUDGE

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28 ¹ If the Defendant determines after further review that an enforceable settlement does not exist, Defendant shall file a
notice to the Court that he does not contend that an enforceable settlement agreement exists. Upon the filing of such
notice, the above briefing schedule shall be considered vacated.