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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

COREY MITCHELL,
Plaintiff,
v.
CHAVEZ, et al.,
Defendants.

No. 1:13-cv-01324-DAD-EPG (PC)

ORDER REJECTING PARTIES’
STIPULATION AND REQUIRING FILING
OF STATUS REPORTS

(Doc. No. 177)

On August 15, 2017, this action proceeded to trial on plaintiff Mitchell’s 42 U.S.C. § 1983 claim for failure to protect brought against defendants G. Chavez and Lt. Sheldon. (Doc. No. 154.) On August 18, 2017, the jury returned a verdict in plaintiff’s favor and the punitive damages phase of the bifurcated trial was scheduled to commence on October 23, 2017 at 1:00 p.m. (Doc. No. 158.) Prior to the punitive damages phase of the trial, however, at the request of the parties a settlement conference before Magistrate Judge Gary S. Austin was convened on the morning of August 23, 2017. (Doc. No. 167.) As a result, the parties reached a settlement agreement and the jury verdict was set aside. (Doc. Nos. 167, 168.)

On November 7, 2017, the parties filed with the court a stipulation for voluntary dismissal with prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii). (Doc. No. 177.) That stipulation provides both for the dismissal of the action and for the court to retain jurisdiction

1 over this action with respect to the “interpretation and enforcement of the settlement agreement
2 *and to determine the issue of attorney fees and costs.*” (Doc. No. 177) (emphasis added). The
3 court finds the terms of the parties’ proposed stipulation and order confusing at best and arguably
4 internally inconsistent as a matter of law. *See Keith Manufacturing, Co. v. Butterfield*, 256 F.
5 Supp.3d 1123, 1128-32 (D. Or. 2017), *appeal filed* June 28, 2017. Accordingly, the undersigned
6 declines to sign the proposed order accompanying the parties’ stipulation.

7 In light of the parties’ suggestion that a motion for attorney’s fees may still be filed and
8 the court’s need to bring this litigation to a close, both parties will be required to file status reports
9 within fourteen days of the date of this order advising the court whether a motion for attorney’s
10 fees and costs will be filed and, if so, when counsel proposes such a motion be filed and heard. In
11 addition, the parties shall address any other matters they believe appropriate to the expeditious
12 closing of this case.

13 IT IS SO ORDERED.

14 Dated: November 27, 2017

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17 UNITED STATES DISTRICT JUDGE
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