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

ALBERT J. HAMILTON,) Case No.: 1:15-cv-00661-AWI-SAB (PC)
)
Plaintiff,)
)
v.) ORDER DENYING, WITHOUT PREJUDICE,
) PLAINTIFF’S MOTION FOR BENCH TRIAL
)
CLENDEHEN,) [ECF No. 69]
)
Defendant.)
)
)
)
)

Plaintiff Albert J. Hamilton is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

On February 10, 2017, Plaintiff filed an objection to Defendant’s demand for jury trial, and requests a bench trial in lieu of a jury trial. (ECF No. 69.)

Pursuant to Federal Rule of Civil Procedure 38(d), “[a] party waives a jury trial unless its demand is properly served and filed. A proper demand may be withdrawn only if the parties consent.” Fed. R. Civ. P. 38(d).

Defendant demanded a trial by jury in his answer filed on January 17, 2017. (ECF No. 67, Answer at 3:4-5.) Thus, in order to dispense with a trial by jury, Plaintiff must obtain consent from Defendant. Accordingly, Plaintiff’s motion for a bench trial is DENIED, without prejudice.

IT IS SO ORDERED.

Dated: February 13, 2017


UNITED STATES MAGISTRATE JUDGE