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8	UNITED STATES DISTRICT COURT	
9	EASTERN DISTRICT OF CALIFORNIA	
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11	EDWARD B. SPENCER,	Case No. 1:17-cv-01505-LJO-JDP (PC)
12	Plaintiff,	ORDER DENYING AS MOOT PLAINTIFF'S MOTION TO ENFORCE SETTLEMENT AGREEMENT
13	v.	
14	J. GUTIERREZ,	(ECF No. 31)
15	Defendant.	
16		
17	Plaintiff Edward B. Spencer is a state prisoner proceeding pro se and in forma pauperis in	
18	this civil rights action pursuant to 42 U.S.C. § 1983.	
19	On July 12, 2019, a settlement conference was held before the undersigned. The terms	
20	and conditions of the settlement agreement were placed on the record. (ECF No. 26.)	
21	On July 15, 2019, the parties filed a stipulation to dismiss this action with prejudice	
22	pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), (ECF No. 29), and the action was	
23	terminated by operation of law, (ECF No. 30).	
24	Currently before the Court is Plaintiff's filing titled "Current Status of Settlement	
25	Agreement," filed on February 7, 2020. (ECF No. 31.) In the filing, Plaintiff asserts that, while	
26	he and Defendant settled this case more than six months ago, he has not received any	
27	"communiqué" stating that the settlement proceeds have been placed into his inmate trust	
28	account. (Id.) The Court construed Plaintiff's filing as a motion to enforce the settlement	
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agreement, and ordered Defendant Gutierrez to file a response to Plaintiff's motion within fourteen days. (ECF No. 32.)

On February 24, 2020, Defendant Gutierrez filed a response to Plaintiff's motion to enforce the settlement agreement, in the form of a declaration from defense counsel. (ECF No. 33.) In his declaration, defense counsel states that, under the terms of the settlement agreement, CDCR was required to make a good-faith effort to pay the settlement amounts no later than January 8, 2020, *i.e.*, 180 days from the date of the settlement conference, when all of the dispositional documents were signed. (Id. at 2.) Further, defense counsel asserts that he has been informed by CDCR that the settlement funds for this case were first applied to Plaintiff's restitution balance, and then the remaining funds were deposited into Plaintiff's trust account on January 27, 2020. (Id. at 3.) The delay in the payment of the settlement amount was due to the fact that the settlement coordinator position at CDCR's Office of Legal Affairs was understaffed at the time that the settlement in this case was being processed. (Id.) Defense counsel's declaration is signed under penalty of perjury. (Id. at 4.)

The Court directed Plaintiff to not file a reply unless ordered to do so. The Court finds that no reply is necessary, and Plaintiff's motion is deemed submitted. Local Rule 230(1).

Based on the information currently before the Court, while the payment of the settlement proceeds was delayed, it appears that CDCR has paid the settlement proceeds to Plaintiff as required by the settlement agreement. Therefore, Plaintiff's motion to enforce the settlement agreement, (ECF No. 31), is HEREBY DENIED as moot.

IT IS SO ORDERED.

23 Dated

Dated: **February 24, 2020**

UNITED STATES MAGISTRATE JUDGE