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1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 11 EARNEST CASSELL WOODS, II, No. 2:04-cv-1225 MCE AC P 12 Plaintiff. 13 v. **ORDER** 14 TOM L. CAREY, et al., 15 Defendants. 16 17 18 19 20 21 22 23 24

On August 20, 2015, a settlement conference was held in this case and an agreement was reached. ECF No. 352. Several weeks after the conclusion of the settlement conference, defendant filed a motion to enforce the settlement agreement, in which he alleged that plaintiff was refusing to sign the written agreement memorializing the agreed-upon terms or to sign the dismissal paperwork in compliance with the oral agreement because he felt that the agreed settlement amount was insufficient. ECF No. 353. By order filed January 15, 2016, the District Judge adopted findings and recommendations granting defendant's motion and dismissed the case with prejudice. ECF No. 387. By the same order, the California Department of Corrections and Rehabilitation was required to deposit the settlement funds with the Clerk of the Court pending the resolution of any appeal. Id. at 2. Plaintiff appealed the judgement. ECF No. 389. On March 20, 2018, the Ninth Circuit affirmed the judgment (ECF No. 394) and the mandate has recently been entered (ECF No. 395).

Since the appeal is now finalized, the settlement proceeds will need to be disbursed. Because the funds are to be paid to plaintiff's mother, Mildred McKinney, the court will require Ms. McKinney's address. Although Ms. McKinney's address is in the record, that address is now over three years old. ECF No. 353-1. Furthermore, the settlement funds are subject to any restitution plaintiff owed at the time of the settlement agreement. ECF No. ECF No. 387.

Accordingly, IT IS HEREBY ORDERED that:

- Within fourteen days of service of this order, defendant shall contact plaintiff to verify
 Ms. McKinney's current address and provide such address to the court.
- 2. Within fourteen days of service of this order, defendant shall also notify the court whether plaintiff owed any restitution at the time of the settlement agreement. If plaintiff did owe restitution, defendant shall further notify the court whether any of the restitution remains outstanding and, if so, what portion of the settlement funds are to be applied to the restitution and where the funds should be sent.

DATED: October 29, 2018

ALLISON CLAIRE

UNITED STATES MAGISTRATE JUDGE