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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHAEL SMITH,
Plaintiff,
v.
R. STOVALL, et al.,
Defendants.

NO. CIV. S-08-2492 LKK/JFM

O R D E R

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Pending before the court is a motion by defendants to dismiss the case for plaintiff's alleged failure to obey a court order.

On September 23, 2010, Magistrate Judge Moulds issued an order awarding expenses to defendant for plaintiff's failure to attend a video deposition scheduled for May 27, 2010. The magistrate judge awarded defendants \$950 in expenses. ECF No. 59. Plaintiff has not paid the expenses. At the trial confirmation hearing on September 12, 2011, defendants requested clarification of when the payment of the expenses was due. This court referred the request for clarification to the magistrate judge. On November 7, 2011, Magistrate Judge Moulds issued an order stating: "The award of


1 expenses ordered by this court gave rise to a monetary obligation
2 owed by plaintiff to defendants. That obligation arose at the time
3 this court's order became final. The award is in the nature of a
4 judgment, albeit not yet a final one, enforceable like any other
5 monetary judgment entered in a federal court." ECF No. 77.

6 A trial in this matter is currently set for November 29, 2011.
7 Plaintiff has not yet filed an opposition to the motion to dismiss.
8 Accordingly, the court ORDERS as follows:

9 [1] The trial date is VACATED, subject to be reset after the
10 court rules on the pending Motion to Dismiss.

11 [2] Plaintiff is ORDERED to file an opposition to the Motion
12 to Dismiss within ten (10) days of the issuance of this order.
13 IT IS SO ORDERED.

14 DATED: November 15, 2011.

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17 LAWRENCE K. KARLTON
18 SENIOR JUDGE
19 UNITED STATES DISTRICT COURT
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