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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

WARREN FRANK, JR.,  
Plaintiff,  
v.  
JEFF MACOMBER, et al.,  
Defendants.

No. 2:15-cv-2133 KJM CKD P

ORDER AND  
ORDER TO SHOW CAUSE

On June 29, 2018, the parties filed a stipulation for voluntary dismissal of this action with prejudice under Fed. R. Civ. P. 41(a)(1)(A)(ii). ECF No. 80. In the stipulation, the parties represented that they had “resolved this case in its entirety.” *Id.* at 1. In accordance with the stipulation and Fed. R. Civ. P. 41, the Clerk of the Court closed the case on July 2, 2018. ECF No. 81.

On September 6, 2018, plaintiff filed a motion to withdraw from the settlement agreement. ECF No. 82. On September 12, 2018, defendants filed an opposition to the motion, ECF No. 83, and on September 25, 2018, plaintiff filed a response. ECF No. 84. Defendants provide a copy of the settlement agreement with their motion. The agreement provides that plaintiff was to receive \$1,000 from the California Department of Corrections and Rehabilitation (CDCR) and that CDCR would “make a good faith effort to pay the [\$1,000] within 180 days. . .” Plaintiff seeks to withdraw from the agreement because he understood he would receive the

1 payment immediately after signing the agreement and had he understood he would have to wait  
2 180 days he would not have settled the case but would have gone to trial. ECF No. 82 at 2.

3 It appears that the settlement amount agreed to was to be paid to plaintiff by the  
4 end of December 2018. Good cause appearing, IT IS HEREBY ORDERED that:

5 1. Within ten days from the date of this order the parties shall inform the court in  
6 writing whether the full amount of the settlement has been paid to plaintiff, and

7 2. If it has been paid, the parties shall show cause in writing if any they have why  
8 plaintiff's motion should not be denied as moot.

9 DATED: July 22, 2019.

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12 UNITED STATES DISTRICT JUDGE  
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