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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

WAYMON MICKIANGELO BERRY, III,) No. C 06-3795 MMC (PR)
Plaintiff,) **ORDER DENYING WITHOUT
v.) PREJUDICE PLAINTIFF'S MOTION TO
MICHAEL S. EVANS, Warden, et al.,) ENFORCE SETTLEMENT
Defendants.) AGREEMENT
(Docket No. 77)**

On June 16, 2006, plaintiff, a California prisoner proceeding pro se, filed the above-titled civil rights action under 42 U.S.C. § 1983, claiming prison officials at Salinas Valley State Prison acted with deliberate indifference to his serious medical needs in 2005. On February 3, 2010, the parties entered into a settlement agreement for the amount of \$4,500. (Docket No. 72.) On February 5, 2010, the Court entered an order of voluntary dismissal of the action without prejudice. (Docket No. 74.)

On July 21, 2010, plaintiff filed the instant motion to enforce the settlement agreement on the ground he has not yet been paid. Thereafter, on July 28, 2010, defendants opposed the motion, stating they were unable to enforce the settlement agreement because the State of California did not have a budget and, consequently, the Department of Corrections and Rehabilitation was prohibited from issuing any payments to vendors or paying settlements. Defendants further stated that settlement payments usually take approximately six months to process. (Docket No. 78.) Subsequently, on October 8, 2010, the State of California passed

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For the Northern District of California

1 a budget.

2 Based on the above, plaintiff's motion to enforce the settlement agreement is hereby
3 DENIED without prejudice. If, by May 1, 2011, plaintiff still has not received payment, he
4 may renew the instant motion.

5 This order terminates Docket No. 77.

6 IT IS SO ORDERED.

7 DATED: November 30, 2010

Maxine M. Chesney
8 MAXINE M. CHESNEY
9 United States District Judge

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