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United States District Court  
Northern District of California

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
EUREKA DIVISION

DONTAVIAS HAYNES,  
Plaintiff,  
v.  
ANTHONY HEDGPETH, et al.,  
Defendants.

Case No. 12-cv-00363-JST (NJV)

**ORDER DENYING MOTION FOR  
DEFAULT**

Re: Dkt. No. 84

The undersigned held a settlement conference in this case on June 18, 2015, at which the matter was settled. (Doc. 74.) On November 12, 2015, Plaintiff filed a Motion for Default, claiming that Defendants had breached the settlement agreement by failing to pay him the agreed-upon settlement. (Doc. 84.) On December 14, 2015, District Judge Tigar referred this matter to the undersigned. (Doc. 85.) On January 22, 2016, the court entered an order requiring Defendants to respond to Plaintiff's motion. (Doc. 86.)

Defendants filed their response to Plaintiff's motion on January 27, 2016. (Doc. 87.) In their response, Defendants argue that default should not be entered because Plaintiff has received his settlement award. Defendants assert that on October 22, 2014, the settlement amount of \$7,500 was transferred to Plaintiff's client trust account. (Decl. of C. Mills, ¶ 2, Ex. A.) Defendants explain that California law requires that settlement proceeds be paid to the California Victims Compensation and Government Claims Board to satisfy outstanding victim's restitution orders or fines against an inmate, with the balance forwarded to the payee. Cal. Penal Code § 2085(n). At the time of settlement, Plaintiff owed \$ 5,812.26 in victim restitution. (Decl. of C. Mills, ¶ 2.) Plaintiff was also charged a 5% administrative fee in the amount of \$290.61, as

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required under Penal Code § 2085.5(e). (*Id.*) After these deductions, the amount deposited into Plaintiff's trust account was \$1,397.13. (*Id.*)

Plaintiff has not responded to Defendants' response to his motion. Based on the above information provided by Defendants, the court finds that Defendants have complied with the terms of the settlement and that there is no basis for the entry of default. Accordingly, Plaintiff's motion is HEREBY DENIED.

**IT IS SO ORDERED.**

Dated: February 18, 2016



NANDOR J. VADAS  
United States Magistrate Judge