

United States District Court
For the Northern District of California

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

STEPHEN B. TURNER,
Plaintiff,
v.
DUSTIN TIERNEY,
Defendant.

No. C 12-6231 MMC

**ORDER DENYING MOTION TO MODIFY
SETTLEMENT AGREEMENT AND
MOTION TO VACATE JANUARY 3, 2014
ORDER**

Before the Court are two motions, "Motion to Modify Settlement Agreement" and "Request to Vacate the January 3, 2014 Order of Dismissal as Settlement Has Not Executed," both filed October 20, 2014, by plaintiff Stephen B. Turner. Defendant Dustin Tierney has filed opposition, to which plaintiff has replied. Having read and considered the papers filed in support of and in opposition to the motions, the Court finds the matters appropriate for decision on the parties' respective written submissions, VACATES the hearing scheduled for December 5, 2014, and rules as follows.

By order filed January 3, 2014, in light of the parties' having reached a settlement and having placed said settlement on the record, the Court dismissed plaintiff's claims without prejudice and further provided therein that such dismissal would be vacated and the action restored to the calendar should any party, within 180 days, certify that the consideration for the settlement had not been delivered. The above-referenced motions

1 were filed more than nine months after the Court entered its order of dismissal.

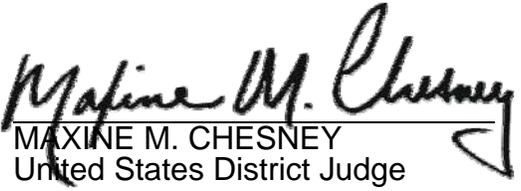
2 Accordingly, the motions are hereby DENIED as untimely.

3 **IT IS SO ORDERED.**

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5 Dated: November 17, 2014

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MAXINE M. CHESNEY
United States District Judge

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