


1 Counsel for Defendants, Mr. Bailey, appeared on behalf of his partner, Dennis Kennedy, and
2 made certain representations concerning what occurred in the related state court action. In summary,
3 counsel for Defendants dispute that the Defendants breached any provision of the parties' settlement
4 agreement, and contend that the Defendants have fully performed and are entitled to a dismissal of this
5 action with prejudice. Mr. Bailey indicated the Defendants tendered the full amount of settlement
6 proceeds to counsel for Plaintiffs before Judge Denton, but that Plaintiffs refused to accept the tender.
7 Judge Denton entered an oral order requiring Mr. Kennedy to deposit the cashier's check for settlement
8 proceeds in this case into an interest bearing account. Counsel for Defendants did not oppose the
9 request made by counsel for Plaintiffs to give Plaintiffs two weeks from Judge Denton's decision of the
10 amount of the deficiency judgment in which to file a motion to enforce.

11 Mr. Thurston indicated that the Plaintiffs dispute Mr. Bailey's representations of what occurred
12 in state court, and would raise these issues in the motion to enforce. The court indicated it would not
13 construe Mr. Thurston's failure to address each of Mr. Bailey's points as an admission or concession.

14 **IT IS ORDERED** that:

- 15 1. Plaintiffs shall have two weeks from Judge Denton's decision on the amount of the
16 deficiency judgment involved in the underlying state case in which to file a motion to
17 enforce the parties' settlement agreement in this case.
- 18 2. Defendants shall have 14 days after service of the motion to enforce in which to file a
19 response.
- 20 3. Plaintiffs shall have 7 days after service of the response in which to file a reply.
- 21 4. Counsel for Plaintiffs may, in their discretion, file the motion to enforce before Judge
22 Denton decides the amount of the deficiency judgment in the underlying state case.

23 Dated this 13th day of March, 2012.

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26 Peggy A. Zeen
27 United States Magistrate Judge
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