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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

DONALD GLASS,

Plaintiff,

v.

R. BEER, et al.,

Defendants.

CASE NO. 1:04-cv-05466-OWW-SMS PC

ORDER NOTIFYING PLAINTIFF OF
WITNESS FEES AND COSTS DUE TO
SUBPOENA UNINCARCERATED
WITNESSES WHO REFUSE TO TESTIFY
VOLUNTARILY

(Docs. 185-187)

_____ /
This action is set for jury trial on March 16, 2010, before the Honorable Oliver W. Wanger. Pursuant to the Court’s scheduling order filed on September 15, 2009, Plaintiff was informed that if he wishes to have the Marshal serve any unincarcerated witnesses who refuse to testify voluntarily, he must submit money orders for the witnesses to the Court no later than January 12, 2010. (Doc. 184, 3:17-4:17.) Further, in order to ensure timely submission of the money orders, Plaintiff was informed that he should notify the Court of the names and locations of his witnesses within forty-five days of the order. (Id.)

On December 3, 2009, Plaintiff filed notices of the names and locations of three unincarcerated witnesses he wishes to have testify at trial. The witnesses are or were employed at California State Prison-Corcoran.

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1 Plaintiff is notified that for each witness, he must submit a money order in the amount of
2 \$100.17, made payable to witness, to the Court no later than January 12, 2010.¹ No witness will be
3 served with a subpoena absent the timely submission of a money order. Plaintiff's notice was not
4 submitted within forty-five days, and the untimeliness of the notice leaves Plaintiff less time to
5 obtain and submit money orders than he would otherwise have had. Plaintiff's late notice does not
6 provide a ground to extend any deadlines set in the scheduling order. Fed. R. Civ. P. 16(b)(4).

7 To the extent Plaintiff is unsure where the witness is currently located, the Court and the
8 Marshal cannot and will not conduct an investigation on Plaintiff's behalf. Ascertaining the location
9 of Plaintiff's non-incarcerated witnesses is Plaintiff's responsibility. If Plaintiff submits the money
10 orders as required, the Court will direct the Marshal to serve the witnesses at the location provided
11 by Plaintiff, which, at this time, is CSP-Corcoran.

12 **Accordingly, pursuant to the Second Scheduling Order, if Plaintiff wishes to have**
13 **Correctional Sergeants Rangel and Scaife, and Registered Nurse Koepp served with**
14 **summonses to testify at trial, he must submit, for *each* witness, a money order made out to that**
15 **witness in the amount of \$100.17.**

16 **The Court cannot accept cash, and the money orders may not be made out to the Court.**
17 **The money orders must be made out in the witness's name.**

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19 IT IS SO ORDERED.

20 **Dated: December 4, 2009**

/s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE

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27 ¹ The daily witness fee of \$40.00, plus \$60.17 for round trip mileage for one day. 28 U.S.C. § 1821. It is
28 109.4 miles, round trip, from CSP-Corcoran to the courthouse, and the current mileage reimbursement rate is 55
cents per mile.