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6 UNITED STATES DISTRICT COURT
7 EASTERN DISTRICT OF CALIFORNIA
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9 DERWIN JULES JACKSON,

10 Plaintiff,

11 vs.

12 W. SULLIVAN, et al.,

13 Defendants.
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1:07-cv-00178-DAD-GSA-PC

ORDER REGARDING WITNESS FEES
(ECF No. 108.)

15 Derwin Jules Jackson (“Plaintiff”) is a state prisoner proceeding with counsel and *in*
16 *forma pauperis* with this civil rights action brought pursuant to 42 U.S.C. § 1983. This case is
17 scheduled for jury trial on March 6, 2018, at 1:00 p.m., before the Honorable Dale A. Drozd.

18 On November 29, 2017, the court issued a Second Scheduling Order setting out pretrial
19 information and deadlines for the parties, including instructions for Plaintiff to request the
20 attendance of witnesses for trial. (ECF No. 103.) Plaintiff was advised that if he “wishes to
21 obtain the attendance of one or more unincarcerated witnesses who refuse to testify voluntarily,
22 Plaintiff must first notify the court in writing of the name and location of each unincarcerated
23 witness[, and t]he court will calculate the travel expense for each unincarcerated witness and
24 notify Plaintiff of the amount(s).” (Id. at 4:20-23.)

25 On December 18, 2017, Plaintiff filed a notice regarding his prospective trial witnesses.
26 (ECF No. 108.) In the notice, Plaintiff listed eight prospective witnesses and requested the
27 court to calculate the travel expense for three of the witnesses, (1) Lt. Traynham, (2) N.
28 Grannis, and (3) Dr. Wlodarczyk.

1 The sum required for the attendance of an unincarcerated witness includes a daily
2 witness fee of \$40.00, plus the witness's travel expenses. 28 U.S.C. § 1821(b). Assuming the
3 witness is traveling by personal car, the standard mileage rate beginning on January 1, 2018
4 will be 54.5 cents for every mile driven.¹ Using the addresses provided by Plaintiff, and
5 computing round-trip travel by personal car to the Fresno courthouse, the travel expenses
6 amount to the following:

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8	Lt. Traynham	316 miles round trip	54.5 cents/mile	\$172.22
9	N. Grannis	336 miles round trip	54.5 cents/mile	\$183.12
10	Dr. Wlodarczyk	290 miles round trip	54.5 cents/mile	\$158.05

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12 If Plaintiff wishes to obtain the attendance of one or more of these witnesses, Plaintiff
13 must submit a money order for each witness, made payable to the witness for the full amount of
14 the witness's travel expenses, plus the daily witness fee of \$40.00. The subpoena will not be
15 served upon the unincarcerated witness by the United States Marshal unless the money order is
16 tendered to the court. Because no statute authorizes the use of public funds for these expenses
17 in civil cases, the tendering of witness fees and travel expenses is required even if the party was
18 granted leave to proceed *in forma pauperis*. **If Plaintiff wishes to have the Marshal serve**
19 **any unincarcerated witnesses who refuse to testify voluntarily, Plaintiff must submit the**
20 **money orders to the court no later than January 8, 2018.**

21 IT IS SO ORDERED.

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23 Dated: December 21, 2017

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE

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28 ¹ <https://www.irs.gov/newsroom/standard-mileage-rates-for-2018-up-from-rates-for-2017>
(last visited December 19, 2017).