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5 **UNITED STATES DISTRICT COURT**
6 **EASTERN DISTRICT OF CALIFORNIA**
7

8 **MICHAEL IOANE, et al,**

9 **Plaintiffs**

10 **v.**

11 **KENT SPJUTE, et al,**

12 **Defendants**

CASE NO. 1:07-CV-0620 AWI GSA

**ORDER RE: REQUEST TO
MAGISTRATE JUDGE TO ORDER
CLERK TO ISSUE TRIAL SUBPOENAS
FOR PRO PER PLAINTIFF**

(Doc. 348)

13
14 Michael Ioane has filed a document entitled “Request to Magistrate Judge to Order Clerk
15 to Issue Trial Subpoenas for Pro Per Plaintiff.” Doc. 348. In that document, he makes five
16 requests: (1) for the court to issue certain subpoenas (both ad testificantum and duces tecum) for
17 trial; (2) for the appointment of a single individual from the Internal Revenue Service to accept
18 service of process for all federal employee witnesses in this case; (3) for the US Marshal Service
19 to serve the subpoenas on all other witnesses in this case; (4) for certain discovery from
20 Defendants; and (5) for the US Attorney’s Office to prepare the trial binders.

21 The first three items involve requests for the court’s help in issuing and serving subpoenas.
22 He states that he can not do it himself “as a result of his imprisonment.” Doc. 348, 1:23-26. While
23 Michael Ioane is incarcerated, he is not the only plaintiff in this case. Shelly Ioane is a full
24 participant in this case and can arrange for issuance and service of subpoenas. With reference to
25 the initial summons, Fed. R. Civ. Proc. 4(c)(3) provides that “At the plaintiff’s request, the court
26 may order that service be made by a United States marshal or deputy marshal or by a person
27 specially appointed by the court. The court must so order if the plaintiff is authorized to proceed
28 in forma pauperis under 28 U.S.C. § 1915 or as a seaman under 28 U.S.C. § 1916.” Michael Ioane

1 had filed an application to proceed in forma pauperis, but that request was denied. Doc. 11. Fed.
2 R. Civ. Proc. 45 discusses the requirements of subpoenas more generally. “Because Rule 45(b)
3 requires personal service of a subpoena, directing the United States Marshal’s Office to expend its
4 resources serving a subpoena is not regularly granted by this Court.” Troupe v. Loomis, 2015 U.S.
5 Dist. LEXIS 104747, *3 (W.D. Wash. Aug. 7, 2015). There is no special circumstance to justify
6 Michael Ioane’s requests regarding subpoenas in this case.

7 Michael Ioane requests that the US Attorney’s Office “prepare the Exhibit Books because
8 Plaintiff is incarcerated and does not have access to 3 Ring Binders with tabs and the ability to
9 place Exhibit tags on the exhibits.” Doc. 348, 4:14-18. Exhibits for trial will be discussed at the
10 Pretrial Conference and the Pretrial Order will deal with how exhibit binders are to be prepared.

11 The remaining discovery disputes raised by Michael Ioane are referred to Magistrate Judge
12 Gary Austin.

13 Michael Ioane’s request for special procedures regarding subpoenas is DENIED.

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15 IT IS SO ORDERED.

16 Dated: August 28, 2015



17 SENIOR DISTRICT JUDGE
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