

1 Piper v. Rasheed, 2011 WL 3495984, at * 4 (N.D. Cal. Aug. 9, 2011) (“[I]n a civil rights action
2 such as this, Rule 706(b) contemplates that the expert would be paid by the parties. Here
3 Defendant would have to bear the entire cost because Plaintiff is unable to pay for the
4 expert. There is no showing that it is appropriate or fair to require Defendant to bear the sole
5 burden of paying an expert witness to present Plaintiff’s point of view.”)

6 If Plaintiff wishes to subpoena Dr. Lewis to testify at trial, Plaintiff must tender the
7 appropriate witness fees with the subpoena. The Ninth Circuit has held that although 28
8 U.S.C. § 1915 provides for service of process with respect to an indigent’s witnesses, it does
9 not waive the payment of fees or expenses for those witnesses. Tedder v. Odel, 890 F.2d
10 210, 211-12 (1989). Therefore, Plaintiff’s *in forma pauperis* status does not excuse him from
11 paying required witness fees.

12 Plaintiff has also filed a motion for reconsideration of Judge McCurine’s Order filed
13 on August 23, 2011, denying Plaintiff’s “motion to intervene.” Plaintiff argues that he still
14 needs treatment by an independent medical clinic because he is being denied medical
15 treatment of his physical ailments, which are allegedly caused by food poisoning. Plaintiff
16 claims that his blood samples have been switched in an attempt to cover up the situation.
17 The Court construes Plaintiff’s motion as objections to Judge McCurine’s Order and
18 **OVERRULES** the objections. As explained in Judge McCurine’s Order, the Court lacks
19 jurisdiction to intervene in the medical treatment of Plaintiff at Calipatria. Plaintiff’s claims
20 of inadequate medical treatment at Calipatria are separate and distinct from Plaintiff’s claim
21 against Defendant Rufino (an LVN at Kern Valley State Prison) and cannot be entertained
22 in this action.

23 **IT IS SO ORDERED.**

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25 DATED: October 13, 2011

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Honorable Barry Ted Moskowitz
United States District Judge

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