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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

John Fratus,
Plaintiff,
vs.
Sergeant Peterson, et al.,
Defendants.

No. CV-08-1500-ROS

ORDER


The parties recently filed their joint statement outlining the witnesses and evidence they plan on presenting at the January 30, 2015 hearing. According to that statement, Plaintiff wishes to call four witnesses: Sergeant Battle, Officer Baily, Kevin Maurice Rhodes, and Megan White. Sergeant Battle has retired and relocated to Ohio. Securing his attendance at the evidentiary hearing appears impractical and Plaintiff will not be allowed to call him. In addition, the record fails to show how testimony from Kevin Maurice Rhodes or Megan White would be relevant to this case. Thus, Plaintiff will not be allowed to call those witnesses. Finally, Plaintiff claims he delivered his initial grievance form to Officer Bailey on January 21, 2007. Officer Bailey, therefore, may have information relevant to the exhaustion issue. Defendants will be required to arrange for Officer Bailey to appear at the evidentiary hearing or provide an explanation why they are unable to do so. If they are unable to secure his attendance, Defendants should indicate Officer Bailey's contact information such that he can be subpoenaed.

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Accordingly,

IT IS ORDERED no later than January 26, 2015 Defendants shall file a statement indicating they will arrange for Officer Bailey to appear at the evidentiary hearing or provide an explanation for why they are unable to do so. If necessary, Defendants should indicate Officer Bailey's contact information such that he can be subpoenaed.

DATED this 22nd day of January, 2015.



Honorable Roslyn O. Silver
Senior United States District Judge