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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

MICHAEL ANDRE TODD,	)	Case No.: 1:08-cv-01504-SAB (PC)
Plaintiff,	)	ORDER GRANTING PLAINTIFF’S MOTION
v.	)	FOR ATTEDANCE OF UNINCARCERATED
ANTHONY L. HEDGPETH, et al.,	)	WITNESS
Defendants.	)	[ECF No. 111]
	)	
	)	

Plaintiff Michael Andre Todd is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

This action is proceeding against Defendants Lopez and Hedgpeth for deliberate indifference to a serious medical need in violation of the Eighth Amendment. The case is currently set for jury trial on May 28, 2014, at 8:30 a.m. before the undersigned.

Now pending before the Court is Plaintiff’s motion for attendance of unincarcerated witnesses, filed March 21, 2014.<sup>1</sup>

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<sup>1</sup> The Court notes for the record that Plaintiff’s motion for obtaining the attendance of unincarcerated witnesses who refuse to testify was due on or before March 3, 2014, in order to ensure timely submission of the money orders. (ECF NO. 107, at 8.) Although the Court will consider the merits of Plaintiff’s motion, despite its untimeliness, Plaintiff is advised that absent a showing of good cause, the Court will not excuse the failure to meet the deadlines imposed in this case, including the timely submission of any money orders, nor delay this trial due to untimely submissions.

1 Plaintiff requests the attendance of the following eight non-retained expert witnesses: (1)  
2 Marshal S. Lewis, M.D. (Tehachapi Surgery Center and Tehachapi Clinic); (2) Ismail Patel, M.D.  
3 (Kern Valley State Prison); (3) Sharon Zamora, Health Care Manager (Kern Valley State Prison); (4)  
4 Catherine Moody, R.N. (Kern Valley State Prison); (5) Steve Fama, Attorney (San Quentin Prison  
5 Law Office); (6) Tobia Smith, Litigation Assistant (San Quentin Prison Law Office); (7) Emma  
6 Rosenbush, Litigation Assistant (San Quentin Prison Law Office); and (8) Zoe Schonfeld, Attorney  
7 (San Quentin Prison Law Office). Plaintiff indicates that these witnesses have personal knowledge of  
8 the events described in his complaint. (ECF NO. 111, pp. 2-6.) Plaintiff's motion shall be granted.

9 **A. Witness Marshall S. Lewis**

10 Plaintiff provides two different addresses for witness Marshall S. Lewis, M.D. The first  
11 address is Tehachapi Surgery Center, 20960 Sage Lane, Tehachapi, California 93561. If Plaintiff  
12 wishes to have Marshall S. Lewis served with a summons to testify at trial from this address, Plaintiff  
13 must submit money order, made out to said witness in the amount of \$209.50.<sup>2</sup> If Plaintiff wishes to  
14 have Marshall S. Lewis served with a summons to testify at trial from the alternative address at the  
15 Tehachapi Clinic, Colonial Medical Group, 1801 16th Street, Suite B, Bakersfield, California, 93301,  
16 Plaintiff must submit a money order, made out to said witness in the amount of \$164.30.<sup>3</sup>

17 **B. Witnesses Ismail Patel, Sharon Zamora, and Catherine Moody**

18 If Plaintiff wishes to have Ismail Patel, Sharon Zamora, and Catherine Moody served with a  
19 summonses to testify at trial, Plaintiff must submit a money order, for *each* witness, made out to said  
20 witness in the amount of \$131.76.<sup>4</sup>

21  
22 <sup>2</sup> The amount for the witness is based on the daily witness fee of \$40.00, plus \$169.50 for round-trip mileage for one day.  
23 28 U.S.C. § 1821. It is 300 miles, round trip, from Tehachapi Surgery Center to the courthouse, and the current mileage  
reimbursement rate is \$0.565 per mile.

24 <sup>3</sup> The amount for the witness is based on the daily witness fee of \$40.00, plus \$124.30 for round-trip mileage for one day.  
25 28 U.S.C. § 1821. It is 220 miles, round trip, from the Tehachapi Clinic to the courthouse, and the current mileage  
reimbursement rate is \$0.565 per mile.

26 <sup>4</sup> The amount for the witnesses is based on the daily witness fee of \$40.00, plus \$91.76 for round-trip mileage for one day.  
27 28 U.S.C. § 1821. Plaintiff reports that these witnesses are located at Kern Valley State Prison in Delano, California. It is  
28 162.4 miles, round trip, from Kern Valley State Prison to the courthouse, and the current mileage reimbursement rate is  
\$0.565 per mile.

1           **C.     Witnesses Steve Fama, Tobias Smith, Emma Rosenbush, and Zoe Schonfeld**

2           If Plaintiff wishes to have Steve Fama, Tobias Smith, Emma Rosenbush, and Zoe Schonfeld  
3 served with summonses to testify at trial, Plaintiff must submit a money order, for *each* witness, made  
4 out to said witness in the amount of \$258.09.<sup>5</sup>

5           Based on the foregoing,

6           IT IS HEREBY ORDERED as follows:

7           1.     Plaintiff's motion for the attendance of unincarcerated witnesses Marshal S. Lewis,  
8 M.D, Ismail Patel, M.D., Sharon Zamora, Catherine Moody, R.N., Steve Fama, Tobias Smith, Emma  
9 Rosenbush, and Zoe Schonfeld is GRANTED;

10          2.     To have Marshal S. Lewis served with a summons to testify at trial, Plaintiff must  
11 submit a money order made out to said witness in the amount of either \$209.50 or \$164.30, dependent  
12 on the witnesses address at the time of service;

13          3.     To have Ismail Patel, Sharon Zamora, and Catherin Moody served with summonses to  
14 testify at trial, Plaintiff must submit a money order made out to each witness in the amount of \$131.76;

15          4.     To have Steve Fama, Tobias Smith, Emma Rosenbush, and Zoe Schonfeld served with  
16 summonses to testify at trial, Plaintiff must submit a money order made out to each witness in the  
17 amount of \$258.09; and

18          5.     The Court cannot accept cash and the money order may not be made out to the Court.  
19 The money order must be made out in the witness's name.

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21 IT IS SO ORDERED.

22           Dated: March 25, 2014

  
UNITED STATES MAGISTRATE JUDGE

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27 <sup>5</sup> The amount for these witness is based on the daily witness fee of \$40.00, plus \$218.09 for round-trip mileage for one  
28 day. 28 U.S.C. § 1821. Plaintiff reports that these witnesses are located at the Prison Law Office, in San Quentin,  
California 94964-0001. It is 386 miles, round trip, from the San Quentin Prison Law Office, and the current mileage  
reimbursement rate is \$0.565 per mile.