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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

RODNEY S. KOCH,

CASE NO. 1:09-cv-00116-SMS PC

Plaintiff,

ORDER DENYING REQUEST FOR  
ISSUANCE OF SUBPOENAS

v.

(Doc. 46)

DR. JEFFERY NEUBARTH, et al.,

Defendants.

\_\_\_\_\_ /

This is a civil rights action filed pursuant to 42 U.S.C. § 1983 by Plaintiff Rodney S. Koch, a state prisoner proceeding pro se and in forma pauperis. On June 21, 2010, Plaintiff sent three subpoenas duces tecum to the Clerk’s Office, and requested that they be stamped and returned to him. Pursuant to the undersigned’s direction, the Clerk’s Office filed the subpoenas.

Subject to certain requirements set forth herein, Plaintiff is entitled to the issuance of a subpoena commanding the production of documents from non-parties, and to service of the subpoena by the United States Marshal. Fed. R. Civ. P. 45; 28 U.S.C. 1915(d). However, the Court will consider granting such a request *only if* the documents sought from the non-party are not equally available to Plaintiff and are not obtainable from Defendants through a request for production of documents. Fed. R. Civ. P. 34. If Plaintiff wishes to make a request for the issuance of a records subpoena, he may file a motion requesting the issuance of a subpoena duces tecum that (1) identifies with specificity the documents sought and from whom, and (2) makes a showing in the motion that the records are only obtainable through that third party.

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1 For the reasons set forth above, Plaintiff's motion for the issuance of the subpoenas is  
2 HEREBY DENIED.

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4 IT IS SO ORDERED.

5 **Dated: June 28, 2010**

/s/ Sandra M. Snyder  
UNITED STATES MAGISTRATE JUDGE

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