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6 UNITED STATES DISTRICT COURT  
7 EASTERN DISTRICT OF CALIFORNIA  
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9 NORMAN IVORY,

10 Plaintiff,

11 vs.

12 CORRECTIONAL OFFICER S. MERAZ,

13 Defendant.  
14

1:09-cv-01272-AWI-GSA-PC

ORDER RESOLVING PLAINTIFF'S  
RENEWED MOTION FOR THE  
ATTENDANCE OF WITNESSES  
(Doc. 145.)

15 **I. RELEVANT PROCEDURAL HISTORY**

16 This is a civil rights action filed pursuant to 42 U.S.C. § 1983 by Norman Ivory  
17 (“Plaintiff”), a state prisoner proceeding pro se and in forma pauperis, against sole defendant  
18 Correctional Officer S. Meraz (“Defendant”), for use of excessive force against Plaintiff in  
19 violation of the Eighth Amendment. This case is scheduled for jury trial to commence on  
20 October 22, 2013 before District Judge Anthony W. Ishii. A telephonic trial confirmation  
21 hearing is scheduled for September 9, 2013 at 3:00 p.m. before District Judge Anthony W.  
22 Ishii.

23 On August 21, 2013, Plaintiff filed a renewed motion for the attendance of witnesses at  
24 trial, which is now before the court. (Doc. 145.)<sup>1</sup>

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26 <sup>1</sup> In Plaintiff’s prior motion for attendance of witnesses, filed on June 17, 2013, Plaintiff requested the  
27 court to transport two incarcerated witnesses to trial in this action, Paul Revels and Dosie M. Barry. (Doc. 130.)  
28 In their opposition to Plaintiff’s motion, Defendants presented evidence that neither of the two inmates is currently  
in the custody of the CDCR. (Declaration of L. Martinez, Doc.136-1 ¶5.) On August 9, 2013, the court issued an  
order denying Plaintiff’s motion, without prejudice to renewal of the motion within twenty days, providing  
additional information required by the court. (Doc. 140.)

1 **II. RENEWED MOTION FOR ATTENDANCE OF WITNESSES**

2 Plaintiff states that he has been informed, and believes, that his expected trial witnesses  
3 Paul Revels and Dosie M. Berry are no longer incarcerated, and he intends to arrange for the  
4 attendance of these witnesses at his own expense.

5 **Discussion**

6 Plaintiff has not requested assistance from the Court to issue subpoenas, submitted any  
7 money orders to the Court, or notified the Court of the locations of his witnesses, pursuant to  
8 the instructions in the Court's Second Scheduling Order issued on May 2, 2013. (Doc. 125 at 4  
9 ¶3.) Further, the deadlines to initiate the process to obtain attendance of unincarcerated  
10 witnesses who refuse to testify voluntarily expired on June 14, 2013 and July 15, 2013. (Id. at  
11 4-5 ¶4.) Based on these facts, the Court presumes that Plaintiff's witnesses agree to testify  
12 voluntarily, in which case it is Plaintiff's responsibility "to notify the witnesses of the time and  
13 date of trial[, and n]o action need be sought or obtained from the Court," and Plaintiff's  
14 renewed motion is resolved. (Id. at 4 ¶3.)

15 **III. CONCLUSION**

16 Based on the foregoing, Plaintiff's renewed motion for the attendance of witnesses is  
17 **HEREBY RESOLVED.**

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20 **IT IS SO ORDERED.**

21 Dated: September 6, 2013

  
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22 SENIOR DISTRICT JUDGE  
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