## UNITED STATES DISTRICT COURT EASTERN DISTRICT OF CALIFORNIA

WILLIAM SUTHERLAND,	) Case No.: 1:09-cv-02152-SAB (PC)
Plaintiff, v.  CORRECTIONAL OFFICERS A. FERNANDO AND J. JERICOFF, et al.,	ORDER DENYING WITNESS SUKNAICH'S MOTION TO VACATE THE WRIT OF HABEAS CORPUS AD TESTIFICANDUM  [ECF No. 150]
Defendants.	) ) ) )

Plaintiff William Sutherland is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Pursuant to 28 U.S.C. § 636(c), both parties consented to the jurisdiction of the United States Magistrate Judge. Local Rule 302; ECF Nos. 133, 144. This case is currently set for jury trial on January 6, 2014, at 8:30 a.m. before the undersigned.

On December 15, 2014, inmate-witness James Suknaich, filed a motion to vacate the order and writ of habeas corpus ad testificandum directing his presence as a witness on January 6, 2014. The Court construes Plaintiff's motion as a request to quash the order and writ of habeas corpus ad testificandum.

Witness Suknaich declares that he has a hearing set on January 7, 2014 (and a second hearing on January 29, 2014), in the Fresno County Superior Court in a civil case in which Suknaich is the Plaintiff. Witness Suknaich requests to appear by telephone or videoconference in order to avoid a

potential conflict if his testimony is required on January 7, 2015. As just stated, the instant case is set to proceed to trial on January 6, 2015, at 8:30 before the undersigned.

The Federal Rules of Evidence allow the trial court to exercise reasonable control over the mode and order of examining witnesses. Fed. R. Evid. 611(a). Pursuant to Rule 611 of the Federal Rules of Evidence, the Court HEREBY ORDERS that:

- 1. Witness James Suknaich's motion to quash is DENIED; and
- Witness James Suknaich shall testify in person at trial in the instant matter on January6, 2015 (the date of the writ of habeas corpus ad testificandum).

IT IS SO ORDERED.

Dated: **December 16, 2014** 

UNITED STATES MAGISTRATE JUDGE