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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

WILLIAM SUTHERLAND,

1:09-cv-02152-LJO-GSA-PC

Plaintiff,

ORDER DENYING PLAINTIFF’S MOTION
FOR SUBPOENAS

v.

JAMES A. YATES, et al.,

(Doc. 29.)

Defendants.

William Sutherland (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action filed pursuant to 42 U.S.C. § 1983. This case is presently in the discovery phase. On September 26, 2011, Plaintiff filed a motion for the clerk to send him four signed but otherwise blank subpoenas duces tecum to serve “upon the parties to which I am requesting documents.” (Doc. 29.)

Plaintiff does not require subpoenas to request documents from parties.¹ Pursuant to Rule 34(a) of the Federal Rules of Civil Procedure, “any party may serve on *any other party* a request within the scope of Rule 26(b) to produce and permit the requesting party . . . to inspect, copy, test, or sample [designated documents] in the responding party’s possession, custody or control.” Fed. R. Civ. P. 34(a)(1) (emphasis added). Pursuant to the Court’s Discovery/Scheduling Order

¹“As provided in Rule 45, a *nonparty* may be compelled [by subpoena] to produce documents.” Fed. R. Civ. P. 34(c) (emphasis added).

1 issued on September 8, 2011 in this action, “discovery requests must be served at least forty-five
2 (45) days before the discovery deadline [of May 8, 2012],” and “[r]esponses to written discovery
3 requests shall be due forty-five (45) days after the request is first served to respond.” (Doc. 27 at
4 ¶¶2, 3.) Therefore, to request documents from a party, Plaintiff only needs to serve a written
5 request upon the party pursuant to the Federal Rules and the Court’s order. Such initial requests
6 should not be filed with the Court.² Local Rule 250.3. Accordingly, Plaintiff’s motion for
7 subpoenas shall be denied.

8 Based on the foregoing, IT IS HEREBY ORDERED that Plaintiff’s motion for subpoenas
9 is DENIED.

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11 IT IS SO ORDERED.

12 **Dated: September 29, 2011**

/s/ Gary S. Austin
13 UNITED STATES MAGISTRATE JUDGE

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²“Requests for production, responses and proofs of service thereof shall not be filed unless and until there is a proceeding in which the request, response, or proof of service is at issue. When required in a proceeding, only that part of the request for production, response of proof of service that is in issue shall be filed.” L.R. 250.3(c).