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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ARVIE B. CARROLL,	CASE NO. 1:10-cv-00623-SKO PC
Plaintiff,	ORDER DENYING SECOND MOTION FOR
v.	APPOINTMENT OF EXPERT WITNESS AS
	PREMATURE
JAMES A. YATES, et al.,	(Doc. 44)
Defendants.	

Plaintiff Arvie B. Carroll, a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on April 9, 2010. On February 10, 2012, Plaintiff filed his second motion seeking the appointment of an ophthalmologist as an expert witness, should this case go to trial. Fed. R. Evid. 706. Plaintiff’s first motion was denied as premature and his second motion shall be denied on the same ground.

“If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise,” Fed. R. Evid. 702, and the Court has the discretion to appoint an expert and to apportion costs, including the apportionment of costs to one side, Fed. R. Evid. 706; Ford ex rel. Ford v. Long Beach Unified School Dist., 291 F.3d 1086, 1090 (9th Cir. 2002); Walker v. American Home Shield Long Term Disability Plan, 180 F.3d 1065, 1071 (9th Cir. 1999). However, at this early stage in the proceedings, there are no pending matters in which the Court requires special assistance, Ford ex rel. Ford, 291 F.3d at 1090; Walker, 180 F.3d at 1071, and Plaintiff’s pro se, in forma pauperis status alone is not grounds for the appointment of an expert witness to assist Plaintiff with his case.

1 At this stage in the proceedings, motions relating to trial issues are premature. Once this
2 matter is set for trial, Plaintiff may renew his motion.¹ Accordingly, Plaintiff's motion for the
3 appointment of an expert witness is HEREBY DENIED, without prejudice, as premature.

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5 IT IS SO ORDERED.

6 **Dated: May 21, 2012**

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE

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¹ This matter will not be set for trial until after resolution of any pending dispositive motions. The dispositive motion deadline is December 13, 2012.