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**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

THOMAS JOHN CARLSON,  
Plaintiff,

v.

R. HANSEN, et al.,  
Defendants.

CASE NO. 1:10-cv-00759-SKO PC  
ORDER DENYING MOTION SEEKING  
LEAVE TO HAVE TRIAL WITNESSES  
TESTIFY VIA DECLARATION  
(Doc. 20)

Plaintiff Thomas John Carlson, a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on April 30, 2010. On June 29, 2012, Plaintiff filed a motion seeking leave to have his trial witnesses testify via declaration.

This action has not yet been set for trial and Plaintiff's second amended complaint, filed on May 24, 2012, is still pending screening. 28 U.S.C. § 1915A. Therefore, any trial motions are premature at this juncture. In addition, Plaintiff's indigency does not provide a basis upon which to allow trial testimony via declaration. See 28 U.S.C. § 1915; Fed. R. Civ. P. 43(a); Fed. R. Evid. 804.

Based on the foregoing, Plaintiff's motion is HEREBY DENIED.

IT IS SO ORDERED.

**Dated: July 3, 2012**

/s/ Sheila K. Oberto  
UNITED STATES MAGISTRATE JUDGE