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8	UNITED STAT	TES DISTRICT COURT
9	EASTERN DISTRICT OF CALIFORNIA	
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11	CURTIS RENEE JACKSON,) Case No.: 1:11-cv-00080-LJO-BAM PC
12	Plaintiff,)) ORDER DENYING PLAINTIFF'S MOTION FOR
13	v.) ISSUANCE OF SUBPOENAS DUCES TECUM) (ECF No. 125)
14	Y. A. YATES, et al.,	
15	Defendants.	
16) _)
17	I. Background	
18	Plaintiff Curtis Renee Jackson ("Plaintiff") is a state prisoner proceeding pro se and in forma	
19	pauperis in this civil rights action pursuant to <u>42 U.S.C. § 1983</u> . This action is proceeding on	
20	Plaintiff's second amended complaint, filed on May 7, 2012, against Defendant Mendez for excessive	
21	force in violation of the Eighth Amendment; a	nd against Defendants Daley, Samonte, Nichols, Valdez
22	and Gonzales for failure to intervene in violation	on of the Eighth Amendment.
23	On April 14, 2014, the Court granted Plaintiff a thirty-day extension of time to file any motion	
24	seeking a third party subpoena. (ECF No. 117	.) On May 13, 2014, Plaintiff filed subpoenas.
25	Consistent with this Court's practice, the subpoenas were construed as a motion seeking the issuance	
26	of subpoenas deuces tecum. On May 15, 2014, the Court denied Plaintiff's motion for the issuance of	
27	subpoenas without prejudice to re-filing subject to certain requirement. (ECF No. 120.) On June 19,	
28	2014, Plaintiff filed the instant motion request	ing issuance of subpoenas duces tecum for the

production of documents. (ECF No. 125.) Defendants did not file a response and the motion is deemed submitted. Local Rule 230(1).

II. Discussion

As Plaintiff was previously informed, subject to certain requirements, he is entitled to the issuance of a subpoena commanding the production of documents from a non-party, Fed. R. Civ. P. 45, and to service of the subpoena by the United States Marshal, 28 U.S.C. 1915(d). The Court will consider granting such a request only if the documents sought from the non-party are not equally available to Plaintiff and are not obtainable from Defendants through a request for the production of documents. Fed. R. Civ. P. 34. A request for the issuance of a records subpoena requires Plaintiff to: (1) identify with specificity the documents sought and from whom, and (2) make a showing that the records are only obtainable through that third party.

In this case, the Court expressly instructed that any renewed motion for the issuance of thirdparty subpoenas must (1) set forth the documents requested and from whom; (2) demonstrate that the
documents are only obtainable through the third party; and (3) establish the relevance of the requested
documents to any claim or defense. (ECF No. 120, p. 3.)

16 Plaintiff's moving papers, which appear to have been prepared by an attorney (Dale 17 McKinney), blatantly disregard the Court's instructions. Plaintiff does not identify the requested documents or demonstrate their relevance to his claims or defenses. Instead, he refers the Court to the 18 19 attached subpoenas and asserts that the requests contained therein are not overly broad or likely to 20 result in the production of irrelevant documents. (ECF No. 125, p. 4.) He also asserts that the 21 requested documents "will show that the Defendant has established a pattern of conduct from past practices that will show the treatment he subjected the Plaintiff to is consistent with previous conduct." 22 23 (ECF No. 125, p. 4.) Plaintiff's statement of purported relevance is not availing. Rather, Plaintiff 24 appears to place the burden on the Court to sift through the ten subpoenas he has submitted and determine whether the requests contained in them appropriately fall within the scope of this action and 25 26 are relevant to a claim or defense. The Court declines to expend its already taxed resources to do so. 27 Accordingly, the Court finds that Plaintiff has not established that the requested documents are 28 relevant to any claim or defense in this action. Fed. R. Civ. P. 26(b). Plaintiff also has not established

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1	that the third party requests are limited such that the burden or expense of the proposed discovery does	
2	not outweigh its likely benefit. Fed. R. Civ. P. 26(b)(2)(C)(iii).	
3	Additionally, the Court declines to correlate the document requests to any prior document	
4	request served on Defendants. Although Plaintiff contends that Defendants have asserted that certain	
5	additional documents are not in their possession, custody or control, this is not sufficient.	
6	III. Conclusion and Order	
7	For the reasons stated, Plaintiff's motion for the issuance of subpoenas duces tecum, filed on	
8	June 19, 2014, is DENIED.	
9	IT IS SO ORDERED.	
10	Dated: August 5, 2014 /s/ Barbara A. McAuliffe	
11	UNITED STATES MAGISTRATE JUDGE	
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