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

KEVIN DARNELL BRYANT,)	Case No. 1:11-cv-00446-BAM (PC)
Plaintiff,)	
v.)	ORDER RECALLING SERVICE OF SUBPOENA
GALLAGHER, et al.,)	ON B. DAVEIGA BY THE UNITED STATES
Defendants.)	MARSHALL
)	(ECF No. 270)
)	
)	

Plaintiff Kevin Darnell Bryant (“Plaintiff”) is state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On September 21, 2016, the Court directed the United States Marshal to serve B. DaVeiga with a subpoena for her appearance at trial on October 18, 2016, along with the witness fee submitted by Plaintiff. (ECF No. 270.)

On October 4, 2016, motions in limine were heard in this matter. (ECF No. 281.) Among the rulings was that B. DaVeiga would be excluded as a witness in this matter, and is consequently not required to appear to testify.

Based on the foregoing, the Court finds it appropriate to recall the portion of its September 21, 2016 order directing service of subpoena on B. DaVeiga, and to return the witness fee for B. DaVeiga to Plaintiff.

Accordingly, IT IS HEREBY ORDERED as follows:

1. The September 21, 2016 order directing the United States Marshal to serve a subpoena and witness fee in accordance with the provisions of Rule 45 of the Federal Rules of Civil Procedure

1 on **B. DaVeiga** is recalled with respect to that witness;

2 2. The Clerk of the Court is directed to forward a copy of this order to the United States
3 Marshal;

4 3. The United States Marshals Service shall send the money order # 17-448437739 in the
5 amount of \$99.51, made payable to B. DaVeiga, to the United States District Court, Eastern District of
6 California, within ten (10) days following receipt of this order; and

7 4. Upon receipt of the money order, the Court shall direct its return to Plaintiff.

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9 IT IS SO ORDERED.

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Dated: October 5, 2016

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE

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