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

TRACY TAYLOR,) Case No.: 1:11-cv-00538-LJO-SAB (PC)
)
Plaintiff,)
) ORDER DENYING PLAINTIFF’S REQUEST
v.) FOR BLANK SUBPOENAS
)
SHAYE O’HANNESON, et al.,) [ECF No. 100]
)
Defendants.)
)
)
)
)
)

Plaintiff Tracy Taylor is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

This case is currently set for jury trial on October 26, 2015.

On September 25, 2015, Plaintiff filed a motion requesting the issuance of five blank subpoenas. (ECF No. 100.) Plaintiff’s motion is untimely and procedurally deficient.

Plaintiff was advised in the Court’s trial scheduling order, dated April 15, 2015, of the following:

If a prospective witness is not incarcerated, and he or she refuses to testify voluntarily, the witness must be served with a subpoena. Fed. R. Civ. P. 45. In addition, the party seeking the witness’s presence must tender an appropriate sum of money for the witness. Id. In the case of an unincarcerated witness, the appropriate sum of money is the daily witness fee of \$40.00 plus the witness’s travel expenses. 28 U.S.C. § 1821.

If Plaintiff wishes to obtain the attendance of one or more unincarcerated witnesses who refuse to testify voluntarily, Plaintiff must first notify the Court in writing of the

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name and location of each unincarcerated witness. The Court will calculate the travel expense for each unincarcerated witness and notify Plaintiff of the amount(s). Plaintiff must then, for each witness, submit a money order made payable to the witness for the full amount of the witness's travel expenses plus the daily witness fee of \$40.00. The subpoena will not be served upon the unincarcerated witness by the United States Marshal unless the money order is tendered to the Court. Because no statute authorizes the use of public funds for these expenses in civil cases, the tendering of witness fees and travel expenses is required even if the party was granted leave to proceed in forma pauperis.

If Plaintiff wishes to have the United States Marshal serve any unincarcerated witnesses who refuse to testify voluntarily, Plaintiff must submit the money orders to the Court no later than June 22, 2015. In order to ensure timely submission of the money orders, Plaintiff must notify the Court of the names and locations of his witnesses, on or before June 15, 2015.

Plaintiff's present request for five blank subpoenas is both untimely and procedurally deficient pursuant to the Court's April 15, 2015, trial scheduling order. Accordingly, Plaintiff's motion must be DENIED.

IT IS SO ORDERED.

Dated: September 30, 2015


UNITED STATES MAGISTRATE JUDGE