

1 federal action proceeding in federal court and California law is inapplicable in this case.

2 Plaintiff relies on U.S. Dep't of Justice v. Tax Analysts, 492 U.S. 136 (1989), to support
3 his claim that a private investigator is necessary to help him pursue an affirmative defense due to
4 the likelihood of prosecutorial vindictiveness. (ECF No. 99 at 2.) However, Tax Analysts
5 involved a weekly magazine that was attempting to obtain recent federal court decisions on tax
6 issues by using a Freedom of Information Act request. 492 U.S. at 139. The Department denied
7 the request and the Supreme Court found that the Department improperly withheld agency
8 records when the request was denied. Id. at 140, 155. Tax Analysts does not stand for the
9 proposition that Plaintiff sets forth.

10 Additionally, while a court may be required to provide investigative services to an
11 indigent defendant to insure effective preparation of the defense, Williams v. Stewart, 441 F.3d
12 1030, 1053 (9th Cir. 2006), this is not a prosecution against Plaintiff by the government. Plaintiff
13 has brought a civil action against the defendants and there is no requirement that he be provided
14 with investigative services.

15 “[T]he expenditure of public funds [on behalf of an indigent litigant] is proper only when
16 authorized by Congress...” Tedder v. Odel, 890 F.2d 210, 211 (9th Cir. 1989) (quoting United
17 States v. MacCollom, 426 U.S. 317, 321 (1976). There is no provision in the forma pauperis
18 statute to pay for litigation expenses of an indigent inmate and no other statute authorizes the
19 federal court to commit federal monies for necessary expenses in a civil lawsuit brought by an
20 indigent litigant. Tabron v. Grace, 6 F.3d 147, 159 (3d Cir. 1993).

21 Although Plaintiff states he does not have resources to prosecute this action because he
22 is in custody, the record shows that he has been released. As Plaintiff has been informed on
23 several occasions, discovery has not been opened in this action and he may not seek to conduct
24 discovery at this time. If the Court resolves the motion to dismiss currently pending in Plaintiff's
25 favor and this action is still proceeding, a scheduling order will issue setting forth further dates,
26 including those for discovery.

27 Finally, Plaintiff states that an investigator is necessary because he does not possess
28 subpoena power. The record demonstrates that Plaintiff is capable of representing himself in this

1 action. He has been aggressively seeking to obtain documents he believes are relevant to this
2 action. If there comes a time when Plaintiff needs to issue subpoenas, Plaintiff can file a motion
3 with the Court.

4 Accordingly, Plaintiff's motion is DENIED.

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6 IT IS SO ORDERED.

7 Dated: February 5, 2014


UNITED STATES MAGISTRATE JUDGE

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