UNITED STATES DISTRICT COURT EASTERN DISTRICT OF CALIFORNIA

HUSSEIN ALI KIETTY,) Case No.: 1:13-cv-00312-SAB (PC)
Plaintiff,	ORDER DENYING PLAINTIFF'S MOTION FOR ATTENDANCE OF UNINCARCERATED
v.	WITNESSES WILLING TO TESTIFY
A. WALKER, et al.,	VOLUNTARILY AS UNNECESSARY AND EXTENDING DEADLINES FOR PROCEDURES
Defendants.	 TO OBTAIN ATTENDANCE OF UNINCARCERATED WITNESSES WHO REFUSE TO TESTIFY VOLUNTARILY
)
) [ECF No. 111]

Plaintiff Hussein Ali Kietty is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Pursuant to 28 U.S.C. § 636(c), the parties have consented to the jurisdiction of the United States Magistrate Judge. Local Rule 302. This case is currently set for jury trial before the undersigned on August 15, 2017.

Currently before the Court is Plaintiff's motion for the attendance of unincarcerated witnesses willing to testify voluntarily, filed April 24, 2017. Plaintiff sets forth several unincarcerated witnesses that are willing to testify at his trial on August 15, 2017. As Plaintiff was advised in the Court's November 30, 2016, initial scheduling order, "[i]t is the responsibility of the party who has secured an unincarcerated witness's voluntary attendance to notify the witness of the time and date of trial. No action need be sought or obtained from the Court. However, the parties are advised that if a witness subsequently refuses to testify prior to trial, the Court will not continue the trial date to allow a party to

compel the attendance of the witness at trial, absent a showing of extraordinary circumstances." (Order, at 8:6-10, ECF No. 88.) Accordingly, because no action is required for the attendance of unincarcerated witnesses who are willing to testify voluntarily, Plaintiff's motion is denied as unnecessary.

However, in light of the fact that the trial was continued at the request of Defendants, the Court will extend the now-expired deadlines for Plaintiff to seek a subpoena and submit the necessary witness fees as required for the attendance of unincarcerated witnesses who refuse to testify voluntarily. (Order, at 8-9, ECF No. 88.) Thus, 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 2, 2017**. 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 **May 22, 2017**.

Accordingly, Plaintiff's motion for attendance of unincarcerated witnesses who have agreed to testify voluntarily is denied as unnecessary, and the deadlines for the procedures of obtaining the attendance of unincarcerated witnesses who refuse to testify is extended to the dates reflected above.

IT IS SO ORDERED.

Dated: **April 26, 2017**

UNITED STATES MAGISTRATE JUDGE

¹ The appropriate sum of money is the daily witness fee of \$40.00 plus the witness's travel expenses. 28 U.S.C. § 1821.