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8   **UNITED STATES DISTRICT COURT**

9   EASTERN DISTRICT OF CALIFORNIA

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11   RICHARD D. HEYER,   Case No. 1:13-cv-01297 DLB PC

12   Plaintiff,   ORDER DENYING PLAINTIFF'S MOTION
                                              FOR ORDER TO PRODUCE DOCUMENTS
13   v.
                                              (Document 22)
14   ANGELA KRUEGER, et al.,

15   Defendants.

16

17   Plaintiff Richard D. Heyer ("Plaintiff") is a California state prisoner proceeding pro se and in

18   forma pauperis in this civil action pursuant to 42 U.S.C. § 1983. Plaintiff filed his complaint on

19   August 5, 2013, and the action was transferred to this Court on August 13, 2013.

20   Plaintiff filed a First Amended Complaint on November 18, 2013, and it is currently awaiting

21   screening.

22   Also on November 18, 2013, Plaintiff filed a motion requesting that the Court order either

23   the Tulare County Superior Court or Defendant Angela Kruger to "furnish page (2) of Plaintiff's

24   originally issued record subpoena served cell front on June 7, 2013." Mot. 1.

25   The Court has previously denied a request from Plaintiff to serve discovery. While Plaintiff

26   states that the instant motion is "not a discovery motion," he is incorrect. Plaintiff is essentially

27   requesting that this Court either (1) serve a subpoena duces tecum on a third party; or (2) require a

28   Defendant to produce a document. This constitutes discovery.

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1 Again, discovery has not yet opened in this action. If the Court screens Plaintiff's First

2 Amended Complaint and finds that it states cognizable claims, the Court will issue an order opening

3 discovery after Defendants file an answer. <u>In other words, until the Court determines that Plaintiff's</u>

4 <u>First Amended Complaint states a cognizable claim, it will not order the production of documents</u>

5 <u>from a party or non-party.</u>

6 Accordingly, Plaintiff's motion is DENIED.

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8 IT IS SO ORDERED.

9 Dated: **December 4, 2013**   /s/ *Dennis L. Beck*

10   UNITED STATES MAGISTRATE JUDGE