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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MERRICK JOSE MOORE,
Plaintiff,
v.
CASAS, et al.,
Defendants.

Case No. 1:13-cv-01820-BAM (PC)
ORDER DIRECTING CLERK OF COURT TO
RETURN WITNESS FEES FOR WITNESS
SABIOS

Plaintiff Merrick Jose Moore (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds on Plaintiff’s Eighth Amendment claims for excessive force against Defendants Meier, Casas, Childress, and Adams, and for failure to intervene against Defendants Ford and Thornburg, with respect to events that occurred on February 15, 2013. All parties have consented to Magistrate Judge jurisdiction. (ECF Nos. 7, 74.) This matter is set for trial on April 29, 2017.

On March 27, 2019, Plaintiff submitted witness fees for his unincarcerated witnesses,¹ and the Court directed service of subpoenas on those witnesses. (ECF Nos. 138, 139.) On April 2, 2019, the subpoena for R.N. Sabios was returned unexecuted, and the witness fees were returned.

¹ Plaintiff submitted three different checks: Witness Fees for C. Love in the amount of \$102.64 (State of California Check #198-0754994); Witness Fees for R.N. Sabios in the amount of \$102.64 (State of California Check #198-0754995); and Witness Fees for R.N. B. Savage in the amount of \$102.64 (State of California Check #198-0754996).

1 (ECF No. 143.)

2 On April 3, 2019, the Court issued an order for Plaintiff to show cause regarding his
3 failure to provide sufficient information to effectuate service on Registered Nurse Sabios, or to
4 provide corrected or updated information regarding the witness's name and a new check made out
5 to the correct individual. (ECF No. 145.) At the motions in limine hearing held on April 24,
6 2019, Plaintiff indicated that given the existing time constraints of trial, he agreed to proceed to
7 trial without the testimony of Registered Nurse Sabios.

8 Accordingly, the Clerk of the Court is HEREBY DIRECTED to return State of California
9 Check #198-0754994 in the amount of \$102.64 for unincarcerated witness R.N. Sabios submitted
10 by Plaintiff on March 27, 2019.

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12 IT IS SO ORDERED.

13 Dated: April 29, 2019

/s/ Barbara A. McAuliffe
14 UNITED STATES MAGISTRATE JUDGE

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