

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

EUGENE FORTE,

1:13-cv-1980-LJO-MJS

Plaintiff,

ORDER DENYING PLAINTIFF'S EX PARTE APPLICATION (Doc. 99)

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TIMOTHY SCHWARTZ,

Defendant.

On February 16, 2016, Magistrate Judge Snyder denied without prejudice Plaintiff's request for court to issue numerous subpoenas, finding that Plaintiff's requested subpoenas did not comply with Federal Rules of Civil Procedure 26(b) or 45(d). Doc. 78 at 3. Plaintiff did not contest or appeal that decision. As discussed at the December 15, 2016 pre-trial conference, Magistrate Judge Snyder explained to Plaintiff the deficiencies with Plaintiff's subpoena request and how he could cure them at a March 2, 2017 status conference. Plaintiff made no attempt to do so, despite Magistrate Judge Snyder's invitation to provide clear, specific, and detailed instructions.

Instead, the Plaintiff waited until six weeks before the scheduled jury trial, at the pre-trial conference, where he repeatedly explained his position, that he disagreed with Magistrate Judge Snyder's denial of his request for subpoenas. The Court explained to Plaintiff that, because he did not appeal that denial to this Court or to the Ninth Circuit, the Court would not re-visit Magistrate Judge Snyder's order, issued ten months ago. The Court further explained that, to the extent Plaintiff was moving to reopen discovery, his request was denied as untimely and without the good cause needed for relief..

1 Plaintiff now applies ex parte for an order directing the Clerk of Court "to immediately provide
2 subpoenas" to [him] when requested by him. Doc. 99 at 1. For the reasons thoroughly explained at the
3 pre-trial conference, on the record, the Court DENIES Plaintiff's application.

4 Also as explained at the pre-trial conference, if Plaintiff requests subpoenas ordering witnesses'
5 attendance at trial, his request should say so. Presently, it appears clear that the subpoenas being
6 requested by the Plaintiff are for discovery purposes to prepare for trial. This was specifically what the
7 Plaintiff was told yesterday at the Pretrial Conference that he was not entitled to do. Request DENIED.

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9 IT IS SO ORDERED.

10 Dated: December 16, 2016

/s/ Lawrence J. O'Neill
11 UNITED STATES CHIEF DISTRICT JUDGE

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