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

5 **EUGENE FORTE,**

6 **Plaintiff,**

7 **v.**

8 **TIMOTHY SCHWARTZ,**

9 **Defendant.**

1:13-cv-1980-LJO-MJS

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

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12 On February 16, 2016, Magistrate Judge Snyder denied without prejudice Plaintiff's request for
13 the Court to issue numerous subpoenas, finding that Plaintiff's requested subpoenas did not comply with
14 Federal Rules of Civil Procedure 26(b) or 45(d). Doc. 78 at 3. Plaintiff did not contest or appeal that
15 order. As discussed at the December 15, 2016 pre-trial conference, Magistrate Judge Snyder explained
16 in detail the deficiencies with Plaintiff's subpoena request and how he could cure them at a March 2,
17 2016 status conference. Plaintiff made no attempt to do so, despite Magistrate Judge Snyder's invitation
18 with clear, specific, and detailed instructions.

19 Instead, the Plaintiff waited until six weeks before the scheduled jury trial, at the pre-trial
20 conference, where he repeatedly explained his position, that he disagreed with Magistrate Judge
21 Snyder's denial of his request for subpoenas. The Court explained to Plaintiff that, because he did not
22 appeal that denial to this Court or to the Ninth Circuit, the Court would not re-visit Magistrate Judge
23 Snyder's order, issued ten months ago. The Court further explained that, to the extent Plaintiff was
24 moving to reopen discovery, his request was denied as untimely and without the good cause needed for
25 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
UNITED STATES CHIEF DISTRICT JUDGE