

1 issuance of a subpoena commanding the production of documents, electronically stored information,
2 and/or tangible things from a nonparty, Fed. R. Civ. P. 45, and to service of the subpoena by the
3 United States Marshal, 28 U.S.C. 1915(d). However, the Court will consider granting such a request
4 only if the documents or items sought from the nonparty are not equally available to Plaintiff and are
5 not obtainable from Defendants through a request for the production of documents, electronically
6 stored information, and/or tangible things. Fed. R. Civ. P. 34. If Defendants object to Plaintiff's
7 discovery request, a motion to compel is the next required step. If the Court rules that the documents,
8 electronically stored information, and/or tangible things are discoverable but Defendants do not have
9 care, custody, and control of them, Plaintiff may then seek a subpoena. Fed. R. Civ. P. 26(b), 34(a)(1).
10 Alternatively, if the Court rules that the documents or items are not discoverable, the inquiry ends.
11 Fed. R. Civ. P. 26(b).

12 In this instance, Plaintiff has not demonstrated that he sought the documentation from
13 Defendants through a request for the production of documents, electronically stored information,
14 and/or tangible things, and, if he has done so, he has not filed a motion to compel the production of
15 such documentation. Therefore, Plaintiff's motion for the issuance of a subpoena duces tecum is
16 HEREBY DENIED as premature, without prejudice to renewal if necessary.

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18 IT IS SO ORDERED.

19 Dated: June 9, 2017


UNITED STATES MAGISTRATE JUDGE