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

CURTIS ANDERSON,

 Plaintiff,

 v.

UNITED STATES OF AMERICA,

 Defendant.

Case No. 1:16-cv-00352-DAD-SAB (PC)

**ORDER GRANTING PLAINTIFF’S MOTION
TO OBTAIN ATTENDANCE OF
UNINCARCERATED WITNESS WHO
REFUSES TO TESTIFY VOLUNTARILY**

(ECF No. 66)

Plaintiff Curtis Anderson is a federal prisoner proceeding *pro se* and *in forma pauperis* in this civil action pursuant to the Federal Tort Claims Act.

On March 12, 2019, the Court issued the Second Scheduling Order, which, among other things, set forth the procedure for obtaining the attendance of unincarcerated witnesses who refuse to voluntarily testify. (ECF No. 64.) The Second Scheduling Order required Plaintiff to notify the Court in writing of the name and location of each desired unincarcerated witness on or before May 22, 2019. (Id. at 4.)

Currently before the Court is Plaintiff’s notice to obtain the attendance of an unincarcerated witness who refuses to testify voluntarily, filed on April 29, 2019. (ECF No. 66.) In his notice, Plaintiff states that he wishes to obtain the attendance of Dr. Edward A. Vanek, Orthopedic Surgeon, Merced, California. (Id.)

Since Plaintiff has failed to provide the Court with a specific address for Dr. Vanek, the

1 Court will calculate the witness fees for Dr. Vanek using Dr. Vanek's address of record obtained
2 from the Osteopathic Medical Board of California, which is Dr. Edward A. Vanek, Jr., Merced
3 Advanced Orthopedics, 3140 Apron Avenue, Atwater, CA 95301.

4 The witness fees for Dr. Vanek are set forth below. The amount is based on the daily
5 witness fee of \$40.00, plus round-trip mileage at the current reimbursement rate of \$0.58 per mile.
6 28 U.S.C. § 1821.

7 Thus, if Plaintiff wishes to have Dr. Vanek served with a summons to testify at trial, then
8 Plaintiff must submit a money order, made out to Dr. Edward A. Vanek, in the amount of \$115.40.¹

9 As set forth in the Court's Second Scheduling Order, to ensure the timely subpoena of this
10 witness for trial, Plaintiff must submit the above listed witness fees no later than July 5, 2019. (ECF
11 No. 64, at 4.)

12 Accordingly, it is HEREBY ORDERED that:

- 13 1. Plaintiff's motion to obtain attendance of unincarcerated witness who refuses to
14 testify voluntarily, (ECF No. 66), is GRANTED;
- 15 2. Plaintiff's deadline to submit the money order in the full amount listed above in
16 order for the unincarcerated witness to be served with a summons to testify at trial
17 is **July 5, 2019**; and
- 18 3. **Plaintiff is advised that the Court cannot accept cash, and money orders**
19 **cannot be made out to the Court, but must be made out to the individual**
20 **witness in that witness's name.**

21 IT IS SO ORDERED.

22 Dated: May 14, 2019

23 
24 UNITED STATES MAGISTRATE JUDGE

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28 ¹ It is 130 miles round-trip from 3140 Apron Avenue, Atwater, CA 95301 to the courthouse.