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8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA  
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11 MITCHELL GARRAWAY,

12 Plaintiff,

13 vs.

14 JACQUILINE CIUFO, et al.,

15 Defendants.  
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**1:17-cv-00533-DAD-GSA-PC**

**ORDER GRANTING PLAINTIFF'S  
REQUEST FOR INSTRUCTIONS TO  
EXPEDITE PAYMENT OF TRAVEL  
EXPENSES FOR UNINCARCERATED  
WITNESSES  
(ECF No. 148.)**

19 **I. BACKGROUND**

20 Plaintiff is a federal prisoner proceeding *pro se* and *in forma pauperis* with this civil rights  
21 action pursuant to Bivens vs. Six Unknown Agents, 403 U.S. 388 (1971). This case now  
22 proceeds with Plaintiff's original Complaint filed on April 17, 2017, against defendants  
23 Jacqueline Ciufu (Unit Manager), K. Miller (Corrections Officer), and Lieutenant J. Zaragoza  
24 (collectively, "Defendants"), for failure to protect Plaintiff in violation of the Eighth Amendment.  
25 (ECF No. 1.)

26 This case is scheduled for a Pretrial Conference (aka Trial Confirmation Hearing) on  
27 October 17, 2022 at 1:30 p.m. before the Honorable Ana de Alba in Courtroom 1. To date, trial  
28 has not been scheduled for this case.

1 On May 28, 2022, the court issued a Second Scheduling Order, which contained  
2 instructions for Plaintiff to request witnesses to appear at trial. (ECF No. 132.) In the Order,  
3 Plaintiff was advised as follows.

4 If a prospective witness is not incarcerated, and he or she refuses to testify  
5 voluntarily, the witness must be served with a subpoena. Fed. R. Civ. P. 45. In  
6 addition, the party seeking the witness's presence must tender an appropriate sum  
7 of money for the witness. *Id.* In the case of an unincarcerated witness, the  
8 appropriate sum of money is the daily witness fee of \$40.00 plus the witness's  
9 travel expenses. 28 U.S.C. § 1821.

10 If Plaintiff wishes to obtain the attendance of one or more unincarcerated  
11 witnesses who refuse to testify voluntarily, Plaintiff must first notify the court in  
12 writing of the name and location of each unincarcerated witness. The court will  
13 calculate the travel expense for each unincarcerated witness and notify Plaintiff  
14 of the amount(s). Plaintiff must then, for each witness, submit a money order  
15 made payable to the witness for the full amount of the witness's travel expenses  
16 plus the daily witness fee of \$40.00. The subpoena will not be served upon the  
17 unincarcerated witness by the United States Marshal unless the money order is  
18 tendered to the court. Because no statute authorizes the use of public funds for  
19 these expenses in civil cases, the tendering of witness fees and travel expenses is  
20 required even if the party was granted leave to proceed *in forma pauperis*.

21 (ECF No. 132 at 5-6 ¶4.)

22 On September 1, 2022, Plaintiff filed motions for the attendance of unincarcerated and  
23 incarcerated witnesses at trial. (ECF Nos. 140, 141.) Plaintiff requested the attendance of two  
24 unincarcerated witnesses, La Ronica Gardea (formerly employed at U.S. Penitentiary-Atwater)  
25 and Corrections Officer Ciprian (currently employed at U.S. Penitentiary-Atwater). (ECF No.  
26 140.) Plaintiff asserted that he is unable to provide these witnesses' current addresses because  
27 he is unable to ascertain the current place of employment of La Ronica Gardea, and he cannot  
28 obtain an address for C/O Ciprian because of a lockdown at the prison. (*Id.*)

1 On October 7, 2022, Plaintiff filed a request for instructions to expedite payment of travel  
2 expenses for his unincarcerated witnesses. (ECF No. 148.)

3 **II. PLAINTIFF’S REQUEST**

4 Plaintiff again asserts that he is unable to obtain addresses for his two prospective  
5 unincarcerated witnesses because federal inmates are not permitted to locate, obtain, or possess  
6 addresses for Federal Bureau of Prisons staff. Plaintiff requests that the court obtain addresses  
7 and calculate travel expenses for his two witnesses so that Plaintiff can submit the required  
8 money orders.

9 Plaintiff must obtain and provide his witnesses’ addresses to the court himself. The court  
10 is not available to conduct research for Plaintiff.<sup>1</sup> However, if Plaintiff has an address for U.S.  
11 Penitentiary-Atwater, and his prospective witness C/O Ciprian is employed there, then Plaintiff  
12 already has C/O Ciprian employer’s address.

13 Importantly, the deadline to initiate the process to obtain attendance of unincarcerated  
14 witnesses who refuse to testify voluntarily expired on October 5, 2022. (ECF No. 138 at 5.)  
15 Plaintiff is advised to immediately file a motion for extension of the deadline for the court’s  
16 consideration, showing good cause why the deadline to provide addresses and money orders  
17 should be extended. If the deadline is not extended, then it is too late for Plaintiff to complete  
18 the process to obtain attendance of unincarcerated witnesses who refuse to testify voluntarily.

19 **III. CONCLUSION**

20 Accordingly, the court **HEREBY ORDERS** as follows:

- 21 1. This matter is set for telephonic trial confirmation hearing before the Honorable  
22 Ana de Alba on **October 17, 2022 at 1:30 p.m.** in Courtroom 1; and  
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25 <sup>1</sup>It is not the court’s duty to act as Plaintiff’s counsel or paralegal in these matters.  
26 Martinez v. Court of Appeal of Cal., Fourth Appellate Dist., 528 U.S. 152, 162, 120 S.Ct. 684, 145  
27 L.Ed.2d 597 (2000) (“[T]he trial judge is under no duty to provide personal instruction on courtroom  
28 procedure or to perform any legal ‘chores’ for the defendant that counsel would normally carry out”);  
Pliler v. Ford, 542 U.S. 225, 231, 124 S. Ct. 2441, 2446, 159 L. Ed. 2d 338 (2004) (“Requiring district  
courts to advise a *pro se* litigant in such a manner would undermine district judges’ role as impartial  
decisionmakers.”).

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2. Plaintiff's request for instructions to expedite payment of travel expenses for unincarcerated witnesses who refuse to testify voluntarily is granted by this order.

IT IS SO ORDERED.

Dated: October 10, 2022

/s/ Gary S. Austin  
UNITED STATES MAGISTRATE JUDGE