

1 circumstances here. He has provided no
2 explanation of why each unincarcerated
3 witness is necessary. Many of plaintiff's
4 proposed witnesses also appear on defendants'
5 witness list and plaintiff will be permitted
6 to question any witness defendants present.
7 ECF No. 180 at 12-15. The court's non-
8 appropriated fund is simply too meager to
9 cover the witness expenses for every indigent
10 litigant in the district. Accordingly,
11 plaintiff's request for a waiver of witness
12 fees is denied.

13
14 (Order 1:23-2:7, ECF No. 242.)

15 Plaintiff avers in support of his objection, in
16 relevant part:

17 [The Magistrate Judge's January 12, 2016
18 Order] on page 2 lines 3-4 state[s] that
19 "Many of plaintiff's proposed witnesses also
20 appear on defendants['] witness list.
21 Plaintiff object[s] to this. Plaintiff's list
22 ha[s] doctors that have treated plaintiff.
23 Defendants['] list does not. Defendants[']
24 witness Chief Medical Executive Dr. Swingle[]
25 is what her title . . . stat[es,] an
26 executive[, who] has never examine[d]
27 plaintiff about injuries attach[ed] to this
28 excessive force. This presents extraordinary
circumstances. Plaintiff['s] witnesses are
doctors.

Plaintiff is requesting that [the
C]ourt[] make non-appropriated fund[s]
available for Dr. Miller (H.D.S.P.) for
testimony about plaintiff's testicle injury.
Dr. Jackson (Corcoran) for testimony about
plaintiff's neck injury and Dr. Rouch NP-C
(Corcoran) for testimony about plaintiff's
left shoulder injury. These three doctors
do[] not appear on defendants['] witness
list.

(Pl.'s Decl. ISO Obj. ¶¶ 4-5, ECF No. 248 (paragraph numbers
omitted).)

Local Rule 303(f) states: "[t]he standard that the
assigned Judge shall use in [reconsideration of a Magistrate
Judge's ruling] is the 'clearly erroneous or contrary to law'

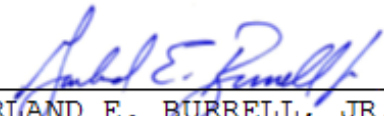
1 standard set forth in 28 U.S.C. § 636(b)(1)(A).” “A [M]agistrate
2 [J]udge’s factual findings are ‘clearly erroneous’ when the
3 district court is left with the definite and firm conviction that
4 a mistake has been committed.” Mackey v. Frazier Park Pub. Util.
5 Dist., No. 1:12-CV-00116-LJO-JLT, 2012 WL 5304758, at *2 (E.D.
6 Cal. Oct. 25, 2012) (quoting Sec. Farms v. Int’l Bhd. of
7 Teamsters, 124 F.3d 999, 1014 (9th Cir. 1997)). “An order ‘is
8 contrary to law when it fails to apply or misapplies relevant
9 statutes, case law, or rules of procedure.’” Id. (quoting Knutson
10 v. Blue Cross & Blue Shield of Minn., 254 F.R.D. 553, 556 (D.
11 Minn. 2008)).

12 Plaintiff has not shown that the Magistrate Judge’s
13 decision denying his request to waive witness fees was clearly
14 erroneous or contrary to law. “The magistrate judge correctly
15 ruled that 28 U.S.C. § 1915, the in forma pauperis statute, does
16 not waive payment of fees or expenses for witnesses.” Dixon v.
17 Ylst, 990 F.2d 478, 480 (9th Cir. 1993) (citing Teddler v. Odel,
18 890 F.2d 210, 211-12 (9th Cir. 1989)). Further, although this
19 Court has a non-appropriated fund, and General Order 510
20 prescribes a procedure whereby “pro bono counsel appointed in
21 indigent pro se civil cases” may “request reimbursement from the
22 Court’s Non Appropriated Fund . . . [for] certain expenses[,]”
23 Plaintiff has not shown that this General Order governs his
24 request since he is unrepresented. See Antonetti v. Dist. Court,
25 No. 3:10-cv-00158-LRH-WGC, 2013 U.S. Dist. LEXIS 20124, at *14
26 (Feb. 13, 2013) (“While it is true that the District of Nevada,
27 like the [Eastern District of California] has a ‘non-appropriated
28 fund,’ distributions from that fund may be made to reimburse out-

1 of-pocket expenses *incurred by court-appointed attorneys*. Since
2 no attorney has been appointed for Plaintiff, this provision is
3 seemingly unavailable for the provision of . . . witness fees in
4 this case."). "The availability of limited non-appropriated funds
5 does not translate into a generalized right for a pro se litigant
6 to have his costs of litigation paid out of these funds."
7 Whitfiled v. Hernandez, No. 1:13-cv-0724-JLT, 2015 U.S. Dist.
8 LEXIS 154013, at *3 (E.D. Cal. Nov. 12, 2015).

9 For the stated reasons, Plaintiff's objection, seeking
10 reconsideration of the Magistrate Judge's January 12, 2016 order
11 is DENIED.

12 Dated: February 5, 2016

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16 GARIAND E. BURRELL, JR.
17 Senior United States District Judge
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