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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JARMAAL LARONDE SMITH,

Plaintiff,

Case No. 2:07-cv-00964 ALA (P)

vs.

LEANN CRONES, et al.,

ORDER

Defendants.

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On September 3, 2009, Plaintiff filed a motion for the attendance of Bobbie Smith, an unincarcerated witness, at trial. A motion for the attendance of an unincarcerated witness is appropriate if the assistance of the Court is required to secure the attendance of a witness at trial by the issuance of a subpoena. A subpoena is required where an unincarcerated witness will not voluntarily attend and testify at trial. Plaintiff has filed a motion which explains his reasons why he wants to proffer Bobbie Smith as a trial witness. Whether any of her testimony is admissible will be decided at trial. The motion does not assert that Bobbie Smith will not voluntarily appear as a witness at trial. However, the motion appears to be missing pages, following page 3 of 6 and page 4 of 6. If Plaintiff wishes to re-file the motion to include these missing pages, and he sets forth facts showing that the issuance of a subpoena will be necessary to secure Bobbie Smith's attendance, this Court will consider whether a subpoena should be issued.

