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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DENNIS GERALD CLAIBORNE,
Plaintiff,
v.
J. BLAUSER, et al.,
Defendants.

No. 2:10-cv-2427 JAM EFB P

ORDER


Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. The pretrial order in this action issued on March 21, 2014. ECF No. 114. That order informed plaintiff that to obtain the presence at trial of any unincarcerated witness, plaintiff must tender the daily witness fee and the witness’ travel expenses. *Id.* at 10. The order instructed that “even a plaintiff proceeding in forma pauperis must tender the fees” because “[n]o statute authorizes the use of public funds” to cover these costs. *Id.*

Despite this admonition, plaintiff now requests an order for the U.S. Marshal to serve subpoenas on his unincarcerated witnesses and to “advance the witness fees.” ECF No. 154. The Ninth Circuit has held that the in forma pauperis statute, 28 U.S.C. § 1915, does not authorize the expenditure of public funds to pay for witness fees and expenses. *Tedder v. Odel*, 890 F.2d 210, 211-12 (9th Cir. 1989); *see also Dixon v. Ylst*, 990 F.2d 478, 480 (9th Cir. 1993). Accordingly, plaintiff’s motion is denied. If plaintiff wishes to obtain the presence at trial of an unincarcerated

1 witness, he must follow the instructions provided in the pretrial order, including tendering
2 through the U.S. Marshal a money order payable to the witness in the amount of the daily witness
3 fee (\$40.00) plus the witness' travel expenses.

4 So ordered.

5 DATED: May 21, 2015.


6 EDMUND F. BRENNAN
7 UNITED STATES MAGISTRATE JUDGE

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