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

DANIEL LEE THORNBERRY,

No. 2:17-CV-0953-TLN-CMK-P

Plaintiff,

vs.

ORDER

J. BAL, et al.,

Defendants.

_____ /

Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983. Pending before the court are the following: (1) plaintiff’s motions for appointment of expert witnesses (Docs. 26 and 27); (2) plaintiff’s request for issuance of subpoena forms (Doc. 29); and (3) plaintiff’s motions for leave to take depositions by written questions (Docs. 31 and 32).

Plaintiff seeks a court order appointing an “independent neurologist or other neuroscientist” pursuant to Federal Rule of Civil Procedure 35. Rule 35, however, does not provide for court appointment of experts. Instead, that rule allows the court to order a party to submit to a physical or mental examination. Because plaintiff has not cited any authority for the court to appoint experts, plaintiff’s motions will be denied.

1 Plaintiff also seeks a court order permitting him to take written depositions
2 pursuant to Federal Rule of Civil Procedure 31(a)(2). Leave of court under this rule is required
3 where the proposed deponent is in custody. See Fed. R. Civ. P. 31(a)(2)(B). In this case, while
4 plaintiff is in custody, the proposed deponents are not. Therefore, leave of court is not required
5 and plaintiff's motions will be denied as unnecessary.

6 Finally, plaintiff requests that the Clerk of the Court issue blank subpoena forms.
7 Good cause appearing therefore, this request will be granted.

8 Accordingly, IT IS HEREBY ORDERED that:

- 9 1. Plaintiff's motions for appointment of experts (Docs. 26 and 27) are
10 denied;
- 11 2. Plaintiff's motions for leave to take depositions by written questions
12 (Docs. 31 and 32) are denied as unnecessary; and
- 13 3. The Clerk of the Court is directed to forward to plaintiff ten (10) blank
14 subpoena forms.

15
16 DATED: August 22, 2018

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18 **CRAIG M. KELLISON**
19 UNITED STATES MAGISTRATE JUDGE