

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA

3
4 STEVEN DALE PERCELLE,
5 Plaintiff,
6 v.
7 STATE OF CALIFORNIA,
8 Defendant.

Case No. 14-cv-03881-TEH

**ORDER DENYING PLAINTIFF'S EX
PARTE MOTION TO TAKE
DEPOSITION**

9
10 On September 11, 2014, Plaintiff filed a motion for leave to take a deposition of
11 Willie Johnson pursuant to Federal Rule of Civil Procedure 30(a)(2)(B). Mot. at 1 (Docket
12 No. 9). Plaintiff labeled the motion an “*ex parte*” motion and asserted that it was filed
13 under Civil Local Rule 7-10. *Id.* at 4. Having reviewed the parties’ papers in support and
14 opposition of the motion, and considering statements made during the Case Management
15 Conference held September 15, 2014, the Court DENIES Plaintiff’s motion without
16 prejudice.

17 An *ex parte* motion is a motion for which notice is not provided to opposing parties.
18 Civ. L.R. 7-10. A party filing such a motion must include a citation to the source of
19 authority permitting an *ex parte* motion to be used for the relief sought. *Id.* Plaintiff here
20 both provided notice of this motion to Defendant and failed to identify any source of
21 authority for using an *ex parte* motion for the relief sought. *See* Mot. Plaintiff’s counsel
22 stated at the Case Management Conference that he filed the motion in this manner because
23 an anonymous clerk at the courthouse told him that an *ex parte* motion was closest to what
24 he was trying to accomplish. It is not sufficient to rely on such advice.

25 Plaintiff has been warned in the related case that violations of the Local Rules will
26 not be tolerated, and may result in summary denial of related motions. *Percelle v.*
27 *Pearson*, No. 14-cv-3881-TEH, 2014 WL 4416075 at *2 (N.D. Cal. Sept. 8, 2014).

United States District Court
Northern District of California

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Plaintiff is hereby instructed that he must adhere to the requirements of the Local Rules to the letter.

For the reasons stated above, Plaintiff's motion is DENIED without prejudice.

IT IS SO ORDERED.

Dated: 09/17/2014



THELTON E. HENDERSON
United States District Judge