

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA**

**CHRISTOPHER BUCKENBURGER**

**CIVIL ACTION**

**VERSUS**

**NO. 06-7393**

**WALTER REED - DISTRICT  
ATTORNEY, ET AL.**

**SECTION: "F" (3)**

**ORDER**

Plaintiff has filed a motion for the issuance of subpoenas to compel certain persons to appear at the scheduled evidentiary hearing. Rec. Doc. 275. That motion is **DENIED**. The Federal Rules of Civil Procedure require that the \$40 witness fee and the reasonably estimated mileage expenses allowed by law be simultaneously tendered at the time a subpoena is served. See 28 U.S.C. § 1821; Fed.R.Civ.P. 45(b)(1); In re Dennis v. Dennis, 330 F.3d 696, 704-05 (5th Cir. 2003). The Court is not authorized to waive or pay witness fees on behalf of litigants proceeding *in forma pauperis*. Pedraza v. Jones, 71 F.3d 194, 196 n.4 (5th Cir. 1995). Accordingly, until such time as plaintiff makes available the necessary funds for the witness fees and expenses to be tendered with the subpoenas, the subpoenas will not be issued.

Plaintiff has also filed a motion for leave to amend the complaint in the future to add as defendants unidentified employees of Archie's Wrecker Service. Rec. Doc. 276. That motion is likewise **DENIED**. Because plaintiff is not yet ready to amend the complaint, his motion is

premature. Moreover, in any event, the amendments would be futile because any claims against those individuals are obviously prescribed. See Gregory v. Mitchell, 634 F.2d 199, 203 (5th Cir. 1981) (in ruling on a motion for leave to amend the complaint, the Court may consider, *inter alia*, the futility of the proposed amendments).

New Orleans, Louisiana, this twenty-seventh day of June, 2011.

A handwritten signature in black ink that reads "Daniel E. Knowles, III". The signature is written in a cursive style with a horizontal line underneath the name.

**DANIEL E. KNOWLES, III**  
**UNITED STATES MAGISTRATE JUDGE**