

1 R. Civ. P. 26(b). *Meeks v. Parsons*, 2009 WL 3003718, *2 (E.D. Cal. 2009) (citing *Fahey v.*
2 *United States*, 18 F.R.D. 231, 233 (S.D.N.Y. 1955). Rule 26(b)(1) establishes the scope of
3 discovery, stating in pertinent part:

4 Parties may obtain discovery regarding any nonprivileged matter that is
5 relevant to any party's claim or defense-including the existence,
6 description, nature, custody, condition, and location of any books,
7 documents, or other tangible things and the identity and location of persons
8 having knowledge of any discoverable matter. For good cause, the court
9 may order discovery of any matter relevant to the subject matter involved
10 in the action. Relevant information need not be admissible at trial if the
11 discovery appears reasonably calculated to lead to the discovery of
12 admissible evidence.

13 Accordingly, under Rule 34, the test for admissibility is the relevance of the requested
14 material or information. *Id.*, (citing *Weahkee v. Norton*, 621 F.2d 1080, 1082 (10th Cir.1980);
15 *White v. Jaegerman*, 51 F.R.D. 161, 162 (S.D.N.Y.1970); *Ceramic Corp. of Amer. v. Inka*
16 *Maritime Corp., Inc.*, 163 F.R.D. 584 (C.D.Cal.1995)).

17 “The law [of discovery] begins with the presumption that the public is entitled to every
18 person’s evidence.” *Richards of Rockford, Inc. v. Pacific Gas & Elec. Co.*, 71 F.R.D. 388, 389
19 (N.D.Cal.1976). A nonparty may be compelled to produce documents and tangible things as
20 provided in Rule 45. Fed. R. Civ. P. 34(c). Assuming that the subpoena is properly constituted
21 and served, Rule 45 requires the subpoena’s recipient to produce the requested information and
22 materials, provided the issuing party “take[s] reasonable steps to avoid imposing undue burden or
23 expense.” Fed. R. Civ. P. 45(c)(1) and (d)(1).

24 **III. Discussion**

25 Plaintiff has the right to subpoena documents from a third party that are relevant to the
26 claims upon which he is proceeding in this action. Plaintiff received care and treatment at Mercy
27 Hospital for the infection which is the subject of this action. (Doc. 15.) Although Plaintiff does
28 not set forth the dates of records he is seeking, it is not unreasonable to authorize production of
records over the past five years -- i.e. from January of 2012 to date. Thus, Plaintiff’s request for
the issuance of subpoena to obtain records from Mercy Hospital is granted and a subpoena will

