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9  
10 IN THE UNITED STATES DISTRICT COURT  
11 FOR THE EASTERN DISTRICT OF CALIFORNIA  
12 SACRAMENTO DIVISION  
13

14 **HARRISON ORR, Individually,**

15 Plaintiff,

16 v.

17 **CALIFORNIA HIGHWAY PATROL**  
18 **OFFICERS BRAME, PLUMB, and DOES**  
19 **1-10, individually,**

20 Defendants.

2:14-cv-585-WBS-EFB

**STIPULATION AND PROPOSED  
ORDER TO ALLOW TRIAL  
TESTIMONY OF SGT. SHIRLEY  
KELLY BY VIDEO RECORDED  
DEPOSITION**

Trial Date: June 2, 2015  
Time: 9:00 a.m.  
Courtroom: 5  
Judge: The Honorable William B.  
Shubb

Action Filed: March 3, 2014

22 All parties, through their respective counsel of record, hereby stipulate, and request this  
23 court to order that non-party California Highway Patrol (CHP) Sergeant Shirley Kelly be allowed  
24 to testify at trial by video-recorded deposition for the following reasons:

25 1. Trial in this matter is scheduled to begin on June 2, 2015 and is expected to last from  
26 5 – 12 court days.

27 2. CHP Sergeant Shirley Kelly is a percipient witness to some of the events of the  
28 incident which is the subject of this lawsuit.

1           3.     Both parties intend to call Sgt. Kelly as a witness to provide percipient witness  
2 testimony during the trial of this matter.

3           4.     Sgt. Kelly has advised that she will be out of state on vacation from May 21 through  
4 June 21, 2015 and is unavailable for trial as presently scheduled.

5           5.     The parties have agreed to conduct a video recorded deposition of Sgt. Kelly's trial  
6 testimony on or about April 29, 2015 at the Office of the Attorney General in Sacramento,  
7 California. Defendants will produce Sgt. Kelly for deposition pursuant to Plaintiff's trial  
8 subpoena of Sgt. Kelly, served on Defendants' counsel by agreement, and pursuant to this  
9 stipulation. Defendants will also obtain a court reporter and videographer for the proceeding and  
10 will provide Plaintiff with copies of the written transcript and of the video recording of the  
11 deposition for use at trial at Defendants' expense.

12           6.     Should the deposition not go forward as presently scheduled for reasons unforeseen  
13 by the parties, it will be rescheduled to a date agreeable to the parties as soon as possible which is  
14 no later than May 15, 2015.

15           7.     The parties further agree that Sgt. Kelly's testimony at the deposition will be  
16 admissible at trial as an exception to the hearsay rule pursuant to Federal Rules of Evidence, Rule  
17 804(b)(1) when offered by any party. All other objections are expressly reserved. Form  
18 objections normally required to be interposed during a deposition or waived must be interposed  
19 during the this deposition or waived.

20           SO STIPULATED.

21           Dated: April 9, 2015

KAMALA D. HARRIS  
Attorney General of California  
PETER A. MESHOT  
Supervising Deputy Attorney General

*/s/Stephen C. Pass*

STEPHEN C. PASS  
Deputy Attorney General  
*Attorneys for Defendants State of California,  
appearing by and through the Department of  
California Highway Patrol, Terry Plumb and  
Jay Brame*

1 Dated: April 9, 2015

HADDAD & SHERWIN LLP

2  
3 /s/ Michael J. Haddad  
4 MICHAEL J. HADDAD


5 Attorneys for Plaintiff  
6 HARRISON LUTHER ORR

7  
8 **ORDER**

9 This Court orders that the parties may take the video recorded deposition of non-party  
10 witness CHP Sergeant Shirley Kelly on or before May 15, 2015 in order to obtain her trial  
11 testimony due to her unavailability for trial. Defendants will produce Sgt. Kelly for deposition  
12 pursuant to Plaintiff's trial subpoena of Sgt. Kelly, served on Defendants' counsel by agreement,  
13 and pursuant to the stipulation of the parties herein. Defendants will obtain a court reporter and  
14 videographer for the proceeding and will provide Plaintiff with copies of the written transcript  
15 and of the video recording of the deposition at Defendants' expense. Sgt. Kelly's testimony at the  
16 deposition will be admissible at trial as an exception to the hearsay rule pursuant to Federal Rules  
17 of Evidence, Rule 804(b)(1) when offered by any party. All other objections are expressly  
18 reserved. Form objections normally required to be interposed during a deposition or waived must  
19 be interposed during the this deposition or waived.

20 IT IS SO ORDERED.

21 Dated: April 14, 2015

22   
23 WILLIAM B. SHUBB  
24 UNITED STATES DISTRICT JUDGE

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