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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

NATHANIEL WILLINGHAM,

No. C 06-3744 MMC

Plaintiff,

**ORDER GRANTING PLAINTIFF'S  
SECOND MOTION FOR TRANSCRIPT  
AT GOVERNMENT EXPENSE**

v.

CITY OF SAN LEANDRO, et al.,

Defendants

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Before the Court is plaintiff's "Motion for Transcript at Government Expense," filed February 20, 2009, by which plaintiff seeks, at government expense, a transcript of the proceedings conducted on February 13, 2008 before the Honorable Wm. Fremming Nielsen, which transcript, plaintiff states, has been designated by defendants as part of the record on appeal. Defendants have not filed a response to the motion. Having read and considered plaintiff's motion, the Court rules as follows.

"Fees for transcripts furnished in [civil] proceedings to persons permitted to appeal in forma pauperis shall [ ] be paid by the United States if the trial court or circuit judge certifies that the appeal is not frivolous." 28 U.S.C. § 753(f).<sup>1</sup> Here, as the Court previously found in its December 17, 2008 order, the instant action included non-frivolous

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<sup>1</sup>By order filed November 5, 2008, plaintiff's motion for leave to proceed in forma pauperis on appeal was granted.

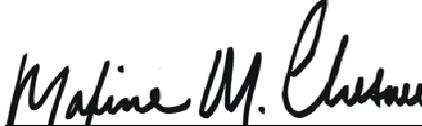
1 claims.

2 Accordingly, the motion is hereby GRANTED.

3 Plaintiff remains obligated, however, to “file a transcript order in the district court,  
4 using the district court’s transcript designation form,” and to “simultaneously provide a copy  
5 of the designation form to the court reporter and the Court of Appeals.” See Ninth Circuit  
6 Court of Appeals Circuit Rule 10-3(d).

7 **IT IS SO ORDERED.**

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9 Dated: February 26, 2009

  
MAXINE M. CHESNEY  
United States District Judge

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