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5 IN THE UNITED STATES DISTRICT COURT  
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
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8 RONALD LEMAS,

No. C 07-00958 SI

9 Plaintiff,

**ORDER GRANTING IN PART  
PLAINTIFF'S DISCOVERY REQUESTS  
and GRANTING DEFENDANTS'  
DISCOVERY REQUEST**

10 v.

11 JILL BROWN, *et al.*,

12 Defendants.  
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14 The parties have filed letter briefs regarding a number of discovery requests. For the reasons  
15 discussed below, the Court GRANTS IN PART plaintiff's request and GRANTS defendants' request.  
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17 **1. Training Documents**

18 Plaintiff Ronald Lemas requests that the Court compel production of written materials that are  
19 used to train prison officials on the proper method for escorting prisoners. The parties dispute whether  
20 plaintiff requested the training materials before July 20, 2008, when discovery closed. On May 28,  
21 2007, plaintiff requested "Any and all documents (including, but not limited to, policies and procedures  
22 manuals, guidelines, rules, regulations, statutes or ordinances) that relate in any way to the manner in  
23 which handcuffs should have been applied to a prisoner at San Quentin Prison on April 28, 2005." In  
24 response, defendants produced a California Department of Corrections manual entitled "Mechanical  
25 Restraint Equipment." Defendants argue that plaintiff's request did not extend to materials relating to  
26 how officers are trained to transport prisoners.

27 The Court disagrees. Materials that are used to train prison officials on how to escort prisoners  
28 qualify as documents that "relate in any way to the manner in which handcuffs should have been

1 applied” on the day in question. Plaintiff is entitled to these materials and made a timely request for  
2 them. Accordingly the Court GRANTS plaintiff’s motion for defendants to produce written materials  
3 that are used to train officers on the proper method of escorting prisoners.

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5 **2. 998 Forms**

6 Plaintiff is attempting to identify the “Officer Peterson” who is named as the reporting officer  
7 in the incident report. Plaintiff has deposed multiple officers with the last name “Peterson” (or with last  
8 names that are spelled similarly) but has not yet identified anyone who admits to being the Officer  
9 Peterson named in the incident report. Plaintiff claims that the prison maintains “998 forms” that record  
10 where each prison employee worked on a given day. Plaintiff requests the Court to compel defendant  
11 to produce “998 forms covering the date of the incident for each officer who has testified.” These forms  
12 are relevant, plaintiff argues, because they could impeach officers who claimed not to be the Officer  
13 Peterson in the incident report.

14 Defendants respond that plaintiff’s request is untimely because he failed to request 998 forms  
15 before the close of discovery. In addition, defendants argue that the request is unnecessary because  
16 plaintiff has already deposed every officer known to have worked in plaintiff’s prison unit on the date  
17 of the incident.

18 The Court agrees with defendants. Plaintiff has now identified the officer who escorted him on  
19 the day of the incident and has deposed every officer with a name similar to Peterson. The 998 forms  
20 will have limited additional value because they can only impeach individuals who said they were not  
21 in the unit during the incident, but the forms cannot prove that any of the deponents is the person named  
22 in the incident report. In addition, plaintiff did not make a timely request for the 998 forms of every  
23 officer who has been deposed. Accordingly, the Court DENIES plaintiff’s motion to compel 998 forms.

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25 **3. Sanctions**

26 Plaintiff moves to impose sanctions on defendants for failing to produce the 998 forms and  
27 training documents. The Court DENIES plaintiff’s request for sanctions.


1 **4. Expert Deposition Fee**

2 Defendants have filed a letter brief requesting the Court to order plaintiff to pay \$400 to  
3 defendants' expert witness, Dr. Gordon Lundy. The fee is for plaintiff's deposition of Dr. Lundy on  
4 September 12, 2008. Dr. Lundy is an orthopedic surgeon whose deposition fee is \$800 per hour.  
5 Plaintiff has already paid Dr. Lundy \$1200. Defendants contend that plaintiff questioned Dr. Lundy for  
6 approximately 90 minutes and therefore owes him an additional \$400. Plaintiff responds that he  
7 questioned Dr. Lundy for only eighty minutes and should not have to pay for a full second hour. In  
8 addition, plaintiff argues that defendant's fee is unreasonable because Dr. Lundy bills defendants only  
9 \$600 per hour for reviewing documents and should not have a higher fee for depositions.

10 The Court GRANTS defendants' motion and orders plaintiff to pay the additional \$400 to Dr.  
11 Lundy.

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13 **IT IS SO ORDERED.**

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15 Dated: October 20, 2008

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18 SUSAN ILLSTON  
19 United States District Judge  
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