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

MARK LETELL ADAMS,  
Plaintiff,

No. C 10-04787 WHA

v.

**ORDER DENYING RELIEF  
FROM NONDISPOSITIVE  
PRETRIAL ORDER OF  
MAGISTRATE JUDGE**

RONALD ALBERTSON individually in his official capacity as a former San Carlos Police Sergeant, MICHAEL ANDERSON individually in his official capacity as a former San Carlos Police Officer, JUSTIN COUNCIL individually in his official capacity as a former San Carlos Police Officer, GREG ROTHHAUS individually in his official capacity as a former San Carlos Police Chief, CITY OF SAN CARLOS, CITY OF SAN CARLOS POLICE DEPARTMENT, and DOES 1-100,

Defendants.

**INTRODUCTION**

In this Section 1983 action, plaintiff challenges a magistrate judge’s discovery order permitting defendants to depose plaintiff’s wife and subpoena third parties for plaintiff’s employment and medical records. For the following reasons, plaintiff’s request for relief from that order is **DENIED**.



1 the marital communications privilege, plaintiff has not identified any communications that are  
2 supposedly confidential and privileged. Nor has he shown that the deposition would concern *only*  
3 matters protected by the privilege. Plaintiff has not shown that Magistrate Judge James’ order  
4 allowing defendants to depose Teresa Adams was clearly erroneous or contrary to law.

5 **2. SUBPOENA OF THIRD-PARTY RECORDS.**

6 Parties may obtain discovery regarding any non-privileged matter that is relevant to any  
7 party’s claim or defense. FRCP 26(b)(1). Defendants served subpoenas on Apple, Inc.,  
8 plaintiff’s former employer, to obtain his employment records; and on Philip Takakjian, the Palo  
9 Alto Medical Foundation, and Sequoia Hospital to obtain plaintiff’s medical records  
10 (Dkt. No. 112). Plaintiff’s employment and medical records are relevant to his damage claim of  
11 “great pain, both physical and mental, great monetary loss, deprivation of liberty, loss of ability to  
12 work and fully function as a member of his family and community” (Sec. Amd. Compl. ¶ 103).

13 Plaintiff objects that the subpoenas violate his individual privacy and privilege  
14 (Dkt. No. 126 at 3). This order disagrees. Plaintiff has waived those privileges as to the records  
15 sought. Plaintiff placed his medical history into issue by claiming to have suffered great  
16 psychological and physical harm. In fact, plaintiff himself produced documents concerning his  
17 medical treatment from these same third parties. Similarly, plaintiff brought his employment  
18 history into issue by claiming that his arrest led to his loss of employment and earning capacity  
19 (Sec. Amd. Compl. ¶¶ 41, 103). Plaintiff has not shown that Magistrate Judge James’ order  
20 forcing third parties to comply with defendants’ subpoenas was clearly erroneous or contrary  
21 to law.

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**CONCLUSION**

For the above reasons, plaintiff's motion for relief from Magistrate Judge James' order is **DENIED**. Defendants may go forward with the deposition of Teresa Adams, and third parties Apple, Inc., Philip Takakjian, Palo Alto Medical Foundation, and Sequoia Hospital shall comply with defendants' subpoenas.

**IT IS SO ORDERED.**

Dated: November 14, 2011.

  
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WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE