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5 **UNITED STATES DISTRICT COURT**  
6 **NORTHERN DISTRICT OF CALIFORNIA**  
7 **SAN FRANCISCO DIVISION**  
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9 YEVGENIY DAVIDOVICH,  
10 Plaintiff,  
11 v.  
12 COUNTY OF SAN MATEO, and others,  
13 Defendants.  
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Case No. 12-cv-02148 JST (NC)

**ORDER GRANTING IN PART AND  
DENYING IN PART MOTION TO  
COMPEL RULE 35 EXAMS**

Re: Dkt. No. 69

15 Defendants move to compel plaintiff to submit to a mental examination and a  
16 physical examination under Federal Rule of Civil Procedure 35. This dispute, and the  
17 alleged necessity for the exams, arises out of plaintiff's allegations that defendants used  
18 excessive force to restrain him while in police custody, causing lasting injuries to his legs.  
19 Judge Tigar referred defendants' motion to this court. Dkt. No. 72. The Court held a  
20 hearing on the motion on May 15, 2013. Based on the parties' submissions and the  
21 arguments of counsel at the hearing, the Court orders as follows:

22 1. The Court finds that plaintiff has not placed his mental condition in  
23 controversy, and that good cause does not exist for permitting a mental examination of  
24 plaintiff. *See Schlagenhauf v. Holder*, 379 U.S. 104, 117-21 (1964). Therefore, the Court  
25 DENIES defendants' motion to compel a mental examination.

26 2. The Court finds that plaintiff has placed his physical condition in controversy,  
27 and that good cause exists for permitting a physical examination of plaintiff, limited in time  
28 and scope as specified below. *Id.*

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