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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JONATHAN MEAS,

Plaintiff(s),

No. C 08-4075 PJH

v.

ORDER


JESSE SERNA, ERIC VALENTINI,
AND SCOTT KORTE,

Defendant(s).

Upon further consideration of the arguments of counsel, the court will permit the evidence of the elbow fracture to be submitted to the jury, in view of the inference of recency of the fracture reflected in Dr. Bourgon's finding of an effusion and plaintiff's own testimony. Accordingly, defendants' Rule 50 motion with respect to the cheek fracture is GRANTED, but is DENIED with respect to the elbow fracture. An instruction explaining that the cheek fracture cannot be the basis of any finding of excessive force, shall be prepared by defense counsel.

IT IS SO ORDERED.

Dated: September 14, 2010



PHYLLIS J. HAMILTON
United States District Judge

United States District Court
For the Northern District of California