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21 UNITED STATES DISTRICT COURT  
 22 NORTHERN DISTRICT OF CALIFORNIA  
 23 SAN JOSE DIVISION

24 GARY H. KIDGELL,  
 25 Plaintiff,  
 26 v.  
 27 COUNTY OF SANTA CLARA, et al.,  
 28 Defendants.

No.: C 08-03396 JW  
**ORDER APPROVING  
 STIPULATION AND REQUEST FOR  
 ORDER ALLOWING DEFENDANTS TO  
 ISSUE THIRD PARTY SUBPOENA FOR  
 CERTAIN RECORDS**

**[Re: Docket No. 164]**

Plaintiff Gary H. Kidgell (“Plaintiff”) and Defendants Sergeants Joseph Lopez and Michael Morin, and Officers Elmer Wheeler, Jon Quiro, Andrew Cunningham, Anthony Taiariol, Michael Roggy, Lynda Rhodes, Myrna Helikson, and Michelle Asban (“Defendants”) respectfully submit this stipulated Request for Order Allowing Defendants to issue a third party subpoena for

1 certain records for the following reasons:

2 1. The last day for fact discovery in this matter was January 8, 2010.

3 2. Prior to close of discovery, Defendants had requested and obtained copies of the x-  
4 rays that were taken of Plaintiff Gary Kidgell's right wrist on January 2, 2008 at the Kaiser Santa  
5 Clara Hospital related to his alleged injuries in this matter. Defendants, however, have misplaced  
6 their copies and would like to obtain new copies in preparation for trial. (Declaration of Neysa  
7 Fligor in support of Stipulation and Request for Order Allowing Defendants to issue a Third Party  
8 Subpoena, ¶ 2.)

9 3. The parties have agreed to allow Defendants to issue a third party subpoena to  
10 Kaiser Santa Clara Hospital to obtain new copies of the subject x-ray.

11 4. Therefore, the parties ask the Court to issue an order allowing Defendants to issue a  
12 third party subpoena to Kaiser Santa Clara Hospital requesting copies of the subject x-ray.

13 Dated: April 5, 2011

Respectfully submitted,

14 MIGUEL MÁRQUEZ  
15 County Counsel

16 By:                   /S/                  .  
17 NEYSA A. FLIGOR  
18 Deputy County Counsel

19 Attorneys for Defendants  
20 OFFICERS WHEELER, QUIRO,  
21 CUNNINGHAM, TAIARIOL, LOPEZ,  
22 MORIN, ROGGY, RHODES, HELIKSON,  
23 AND ASBAN

24 Dated: April 5, 2011

PRO BONO PROJECT SILCON VALLEY

25 By:           /S/ Sayuri K. Sharper          .  
26 SAYURI K. SHAPRER

27 Attorney for Plaintiff  
28 GARY H. KIDGELL

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**ORDER**

Pursuant to the above stated stipulation by the parties, Defendants may issue a third party subpoena to Kaiser Santa Clara Hospital requesting copies of the subject x-ray.

**PURSUANT TO STIPULATION, IT IS SO ORDERED.**

Dated: April 13, 2011

  
\_\_\_\_\_  
~~THE HONORABLE JAMES WARE~~  
United States ~~District Court~~ Judge  
Magistrate  
Howard R. Lloyd