

**FILED**

FEB 25 2015

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE

1 Michael E. Boyd  
2 5439 Soquel Drive  
3 Soquel, CA 95073  
4 Phone: (408) 891-9677  
5 E-mail: michaelboyd@sbcglobal.net  
6 In Pro Per

UNITED STATES DISTRICT COURT  
NORTHER DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

7 Michael E. Boyd,  
8 Plaintiff,

v.

9 Santa Cruz County, Santa Cruz County  
10 Board of Supervisors, John Leopold, Zach  
11 Friend, Neal Coonerty, Greg Caput, Bruce  
12 McPherson, City of Santa Cruz; Santa  
13 Cruz City Council; Pamela Comstock;  
14 David Terrazas; Hilary Bryant; Lynn  
15 Robinson; Don Lane; Cynthia Mathews;  
16 Micah Posner; Rick Martinez; Charles  
17 Prevedelli; Fred Keeley; Sempervirens  
18 Fund; Katherine Beiers; Scott M. Jalbert;  
19 and Colin Disheroon. Does 16 to 50  
20 remaining.

Defendants.

Case No.: 5:15-CV-00405 BLF

REPLY TO DEFENDANT JALBERT'S  
OPPOSITION TO PLAINTIFF'S  
MOTION TO REMAND

Date: May 28, 2015

Time: 9:00 a.m., Courtroom: 3

Honorable Beth Labson Freeman

**REPLY TO OPPOSITION TO MOTION TO REMAND**

18 This motion for remand is made on the ground that the cause was improperly  
19 removed and is not within the jurisdiction of this court in that the following grounds for  
20 improper removal by Defendant County of Santa Cruz *et al.* 1) This cause was removable,  
21 if at all, when defendant filed its answer to the original or amended pleading. Defendant County  
22 of Santa Cruz *et al.* including Defendant Jalbert failed to move for removal within the thirty  
23 days required by Section 1446(b) of Title 28 of the United States Code. 2) And all of the  
24 defendants did not join in the notice of removal, and still have not done so. 3) And not all of the  
25 defendants against whom a claim involving a federal question has been asserted joined in the  
26 notice of removal of the action also including a claim not within the original or supplemental  
27 jurisdiction of the district court/made nonremovable by statute. 4) This action is not a civil action  
28 within Section 1441 (a) of Title 28 of the United States Code. 5) Motion to Dismiss filed by City  
29 of Santa Cruz was not served on Plaintiff. 6) Request for relief from ongoing pattern and practice  
30 of unconstitutional animus.

1       **This cause was removable, if at all, when defendant filed its answer to the original or**  
2       **amended pleading and Defendant County of Santa Cruz et al. including Defendant Jalbert**  
3       **failed to move for removal within the thirty days required by**  
4       **Section 1446(b) of Title 28 of the United States Code**

5       The reasons for remand should be simple. Defendant Jalbert cannot properly remove this  
6 case until Plaintiff's cause of action against him as a Defendant has been granted first by the  
7 Santa Cruz County Superior Court in Case CISCV179607. [See Exhibit 2 Docket Log]

8       Plaintiff filed his Amended Complaint with the Superior Court naming him along with  
9 Does City of Santa Cruz; Santa Cruz City Council; Pamela Comstock; David Terrazas; Hilary  
10 Bryant; Lynn Robinson; Don Lane; Cynthia Mathews; Micah Posner; Rick Martinez; Charles  
11 Prevedelli; Fred Keeley; Sempervirens Fund; Katherine Beiers; Scott M. Jalbert; and Colin  
12 Disheroon on 12/05/2014 These so named Defendants were each served a copy of the Summons  
13 and Original Complaint. [See Exhibit 2 herein] This was done prior to Plaintiff on 1/26/2015  
14 filing with the Superior Court his Motion for Leave from the Court to Amend his Complaint and  
15 Proposed Amended Complaint that included the causes of action specific to Defendant Jalbert.  
16 When on 1/29/2015 Defendants Santa Cruz County, Santa Cruz County Board of Supervisors,  
17 John Leopold, Zach Friend, Neal Coonerty, Greg Caput, Bruce McPherson filed with this court  
18 their Notice of Removal [see Exhibit 1 herein], purportedly in behalf of Defendant Jalbert, it was  
19 not yet ripe for removal to the US District Court therefore, based on the "well-pleaded complaint"  
20 rule, and therefore the removal action was premature at best, since no cause of action with any  
21 specific alleged action with federal nexus to Mr. Jalbert had been heard yet by the Superior Court.  
22 The hearing on Plaintiff's Motion to Amend scheduled for 2/27/2015 was taken off calendar  
23 when these matters were removed to the US District Court, foreclosing any possible federal cause  
24 of action pending as to Defendant Jalbert. Plaintiff cites his discussion in his Remand Motion at  
25 pages 11 through 16 regarding the "well-pleaded complaint" rule which as a practical matter  
26 severely limits the number of cases in which state law "creates the cause of action" that may be  
27 initiated in or removed to federal district court, thereby avoiding more-or-less automatically a  
28 number of potentially serious federal-state conflicts.

29       Additional facts are on 1/29/2015 when Defendants Santa Cruz County *et al*, listed on the  
30 Docket Log as being "Filed by [Defendants] Neal Coonerty, Santa Cruz County Board of  
31 Supervisors, Greg Caput, Santa Cruz County, Bruce McPherson, John Leopold, Zach Friend" not  
32 to purportedly remove the unripe Superior Court case in behalf of Defendant Jalbert. The County

1 Counsel also failed to answer the Original 7/15/2014 Santa Cruz County Superior Court  
2 Complaint received on 1/5/2015 by Defendant Jalbert and only belatedly did so with this District  
3 Court on 2/2/2015 [Exhibit 1 Docket Log]. Also on filing Notice of Removal with this District  
4 Court on 1/29/2015, it neglected to notify the Superior Court of its Removal Action until  
5 2/2/2015 but Defendant Jalbert also neglected to file a copy of his Answer to the original  
6 7/15/2014 Santa Cruz County Superior Court Complaint received on 1/5/2015 with the Superior  
7 Court when he filed his Notice of Removal to the US District Court that same day [Exhibit 2]. On  
8 2/13/2015 Defendants Santa Cruz County *et al* belated joined Defendant Jalbert's removal action.

9 **And all of the defendants did not join in the notice of removal, and still have not done so**

10 The Exhibit 1 Docket Log compared to those named above in the caption by Plaintiff  
11 demonstrates all the named Defendants are not joined. On 2/18/2015 Defendants Sempervirens  
12 Fund and Keeley filed to join the removal action. Defendant Sempervirens received the Original  
13 7/15/2014 summons and complaint on 12/31/2014 followed by Defendant Keeley on 1/9/2015.  
14 Neither Defendants answered the original Complaint within the 30 days allowed, in either of the  
15 Courts, so under the state rules a default judgment against these Defendants would have been  
16 submitted, if but for the removal action these Defendants would have lost on default.

17 On 2/18/2015 Colin Disheroon filed to join the removal action. Defendant Disheroon was  
18 served the Summons and original Complaint of 7/15/2014 on 1/9/2015. Defendant Disheroon did  
19 not file an answer to the original Complaint within the 30 days allowed, in either of the Courts, so  
20 under the state rules a default judgment against this Defendant would have been submitted, if but  
21 for the removal action these Defendants would have lost on default.

22 Three of the named Defendants have not yet joined this removal action, nor have they  
23 filed any answers. Rick Martinez was served the Summons and Complaint on 12/5/2014 along  
24 with Charles Prevedelli. Katherine Beiers received the same on 1/9/2015. Defendants did not  
25 answer the original Complaint within the 30 days allowed, in either of the Courts, so under the  
26 state rules a default judgment against these Defendants would have been submitted, if but for the  
27 removal action these Defendants would have lost on default.

28 **And not all of the defendants against whom a claim involving a federal question has been**  
29 **asserted joined in the notice of removal of the action also including a claim not within the**  
30 **original or supplemental jurisdiction of the district court/made nonremovable by statute**

31 The facts are on 1/29/2015 when Defendants Santa Cruz County *et al*, purportedly  
32 removed the unripe Superior Court case in behalf of Defendant Jalbert they failed to answer the

1 Original 7/15/2014 Santa Cruz County Superior Court Complaint received by Defendant Jalbert.  
2 According to Exhibit 1 on 2/13/2015 Defendants Santa Cruz County *et al* belated joined  
3 Defendant Jalbert's removal action even though on its face it appears the removal action was  
4 brought by County Counsel on behalf of Defendants Santa Cruz County *et al* who were served  
5 the Summons and original Complaint back in July 2014.

6 **This action is not a civil action within Section 1441 (a) of Title 28 of the United States Code**

7 The previous version of **section 1441** stated:

8 (a) Except as otherwise expressly provided by Act of Congress, any civil action  
9 brought in a State court of which the district courts of the United States have  
10 original jurisdiction, may be removed by the defendant or the defendants, to the  
11 district court of the United States for the district and division embracing the place  
12 where such action is pending. For purposes of removal under this chapter, the  
13 citizenship of defendants sued under fictitious names shall be disregarded.

14 (b) Any civil action of which the district courts have original jurisdiction founded  
15 on a claim or right under the Constitution, treaties or laws of the United States  
16 shall be removable without regard to the citizenship or residence of the parties.  
17 Any other such action shall be removable only if none of the parties in interest  
18 properly joined and served as defendants is a citizen of the State in which such  
19 action is brought.

20 28 U.S.C.A. § 1441(a) & (b) (West 2006). The statute was amended in 2011. The current  
21 version states:

22 (a) Generally.—Except as otherwise expressly provided by Act of Congress, any  
23 civil action brought in a State court of which the district courts of the United  
24 States have original jurisdiction, may be removed by the defendant or the  
25 defendants, to the district court of the United States for the district and division  
26 embracing the place where such action is pending.

27 (b) Removal based on diversity of citizenship.—(1) In determining whether a civil  
28 action is removal on the basis of the jurisdiction under **section 1332(a)** of this  
29 title, the citizenship of defendants sued under fictitious names shall be  
30 disregarded.

31 (2) A civil action otherwise removable solely on the basis of the jurisdiction under  
32 **section 1332(a)** of this title may not be removed if any of the parties in interest

1 properly joined and served as defendant is a citizen of the State in which such  
2 action is brought.

3 28 U.S.C.A. § 1441(a) & (b) (West Supp. 2012).

4 **Motion to Dismiss filed by City of Santa Cruz was not served on Plaintiff**

5 The Motion to Dismiss filed by City of Santa Cruz on 2/4/2015 was not served on  
6 Plaintiff. According to Exhibit 1 when the Motion to Dismiss was filed, but not served on  
7 Plaintiff by City of Santa Cruz, on 2/4/2015, the Joinder *in Removal* by the City of Santa Cruz *et*  
8 *al.*, did not occur until 2/17/2015 [Exhibit 1], even though this was more than 30 days later, from  
9 when on 12/19/2014 the City of Santa Cruz *et al.* received the Original 7/15/2014 Santa Cruz  
10 County Superior Court Complaint. The City of Santa Cruz *et al.* had until 1/18/2015 to move for  
11 Removal of Plaintiff's Action to the US District Court, but failed to do so.

12 **Request for relief from ongoing pattern and practice of unconstitutional animus**

13 Plaintiff has a serious medical condition, two herniated disks in his back [see Exhibit 3]  
14 that make it very painful for Plaintiff to travel to the US District Court in San Jose. His pain is  
15 most acute when he has to drive on incline for long periods of time on the Santa Cruz Mountains  
16 between San Jose and Santa Cruz County. For example a 9 am hearing means he is stuck in rush  
17 hour traffic to San Jose. He cannot be a passenger either because long periods of immobility are  
18 even more acute to pain then when driving is. Due process should allow some accommodation for  
19 this to be remanded on this basis alone, if nothing else. Besides the lack of ripeness for a federal  
20 action, Plaintiff alleges the removal action itself is part of a pattern and practice [motive] of the  
21 Defendants acting in retaliation for Plaintiff's exercise of his protest rights exercised under the  
22 First Amendment to the United States Constitution, including but not limited to the right to  
23 freedom of speech and the right to petition the government for redress of grievances [right to sue  
24 in the Superior Court], and have acted to burden, deter and/or chill the exercise of such free  
25 speech rights therein. Claimant alleges there is a pattern and practice of the Respondents engaging  
26 in Actions based on an unconstitutional animus, as opposed to a spirit of cooperation free from  
27 bias. Claimant, engaged in protected speech, and that the speech was a substantial or motivating  
28 factor in an adverse decision taken by the Defendants See *Hynes v. Squillace*, 143 F.3d 653, 658  
29 (2d Cir.1998).

30 Plaintiff is very familiar with this unconstitutional animus of Federal government officials  
31 like the U.S. Treasury [aka ResCap] to refunds. I won this Decision against the Bank GMAC [aka  
32



1 <http://www.calfree.com/7859-BoydOpinion.pdf>] BK Court Decision for Plaintiff. Particularly I  
2 ask the Court focus on the page 3 discussion on the government's unconstitutional animus to  
3 refunds shared by all levels of government.

4 Plaintiff is also very aware of the implications of this unconstitutional animus at the state  
5 level too, as shown by Plaintiff's pending remand against the CPUC from the Ninth Circuit Court  
6 of Appeals (Case 13-55206) in his case against the California Public Utilities Commission  
7 (CPUC) including the individual Commissioners [possibly] pursuant to 42 USC 1983, if the  
8 Appeal Court grants that as part of their remand. Please watch the entire Mike Boyd, Bob Sarvey,  
9 and Californians for Renewable Energy, Inc. (CARE), Oral Arguments focusing on the appeals  
10 court's and Plaintiff's Counsel Westreich's discussions regarding the issue of "lack of a  
11 comprehensive statutory scheme" which is required to bring a 42USC1983 case in the first  
12 instance, an issue of relevance to Plaintiff's case here, visa vi the "well-pleaded complaint" rule  
13 and application of 42USC1983. CARE's Oral Argument before US Court of Appeals in LA can  
14 be viewed here: <https://www.youtube.com/watch?v=rRoMwgUr9hk>

#### 15 **Conclusions and Requests for Relief**

16 Wherefore, for the reasons and proof presented I request the following relief. I request the  
17 Defendants' removal action be remanded back the Santa Cruz County Superior Court. I  
18 respectfully request the court deny the Motion to Dismiss filed by the City of Santa Cruz  
19 Defendants for failure to properly serve the Motion on Plaintiff and/or properly join the removal  
20 action filed by the County Defendants on 1/29/2015. I request a Default Judgment in Plaintiff's  
21 favor be issued as to Defendants Rick Martinez; Charles Prevedelli; Fred Keeley; Sempervirens  
22 Fund; Katherine Beiers; Scott M. Jalbert; and Colin Disheroon, for failure to answer the original  
23 7/15/2014 Summons and Complaint within 30 days of their receipt. Plaintiff asks the May 28,  
24 2015 Hearing on the Motion for Remand is rescheduled for the afternoon.

25 Plaintiff asks this court for an order that defendant pay plaintiff for all his costs and actual  
26 expenses, including attorney's fees, incurred by reason of the removal proceedings. All attached  
27 exhibits and a memorandum of law in support of the above motion are attached hereto and made a  
28 part hereof.

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**EXHIBIT 1**

U.S. District Court  
California Northern District (San Jose)  
CIVIL DOCKET FOR CASE #: 5:15-cv-00405-BLF

Boyd v. Santa Cruz County et al Date Filed: 01/28/2015  
Assigned to: Hon. Beth Labson Freeman Jury Demand: None  
Referred to: Magistrate Judge Howard R. Lloyd Nature of Suit: 440 Civil Rights:  
Case in other court: Superior Court County of Santa Cruz, CV179607 Other  
Cause: 28:1441 Petition for Removal- Civil Rights Act Jurisdiction: Federal Question

**Plaintiff**

**Michael E Boyd**

represented by **Michael E Boyd**  
5439 Soquel Drive  
Soquel, CA 95073  
408-891-9677  
PRO SE

V.

**Defendant**

**Santa Cruz County**

represented by **Jason Michael Heath**  
Assistant County Counsel  
Office of the County Counsel  
701 Ocean Street  
Room 505  
Santa Cruz, CA 95060  
(831) 454-2040  
Fax: (831) 454-2115  
Email: Jason.Heath@co.santa-cruz.ca.us  
*ATTORNEY TO BE NOTICED*

**Defendant**

**Santa Cruz County Board of Supervisors**

represented by **Jason Michael Heath**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Defendant**

**John Leopold**

represented by **Jason Michael Heath**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Defendant**

**Zach Friend**

represented by **Jason Michael Heath**



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(See above for address)  
*ATTORNEY TO BE NOTICED*

**Defendant**

**Neal Coonerty**

represented by **Jason Michael Heath**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Defendant**

**Greg Caput**

represented by **Jason Michael Heath**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Defendant**

**Bruce McPherson**

represented by **Jason Michael Heath**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Defendant**

**Scott M. Jalbert**

represented by **Jason Michael Heath**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Defendant**

**City of Santa Cruz**  
City Attorney  
PO Box 481  
Santa Cruz, CA 95061  
831 423 8383

represented by **George J. Kovacevich**  
Atchison Barisone Condotti &  
Kovacevich  
A Professional Corporation  
PO Box 481  
Santa Cruz, CA 95061  
831-423-8383  
Fax: 831-576-2269  
Email: gkovacevich@abc-law.com  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Defendant**

**SEMPERVIRENS FUND and  
FRED KEELEY**

represented by **Timothy James Schmal , Esq.**  
Schmal Law  
501 Mission Street, Suite 10  
Santa Cruz, CA 95060  
831-227-2245, etc. 701  
Email: tjs@schmallaw.net  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Defendant****COLIN DISHEROON**represented by **M. Allen Hopper**

Law Offices of M. Allen Hopper

P.O. Box 957

Santa Cruz, CA 95061

831-316-5292

Fax: 831-316-5292

Email:

MAllenHopperLawOffices@gmail.com

**ATTORNEY TO BE NOTICED**

Date Filed	#	Docket Text
01/29/2015	<a href="#">1</a>	NOTICE OF REMOVAL OF CIVIL ACTION TO FEDERAL COURT UNDER 28 U.S.C. § 1441(b) (FEDERAL QUESTION) from Santa Cruz Superior Court. Their case number is CV179607. (Filing fee \$ 400.00., Receipt Number 0971-9244516). Filed by Neal Coonerty, Santa Cruz County Board of Supervisors, Greg Caput, Santa Cruz County, Bruce McPherson, John Leopold, Zach Friend. (Attachments: # <a href="#">1</a> Exhibit A, # <a href="#">2</a> Exhibit B, # <a href="#">3</a> Exhibit C, # <a href="#">4</a> Exhibit D, # <a href="#">5</a> Exhibit E, # <a href="#">6</a> Exhibit F, # <a href="#">7</a> Exhibit G, # <a href="#">8</a> Exhibit H, # <a href="#">9</a> Exhibit I, # <a href="#">10</a> Exhibit J, # <a href="#">11</a> Exhibit K, # <a href="#">12</a> Supplement L, # <a href="#">13</a> Exhibit M (part 1 of 2), # <a href="#">14</a> Exhibit M (part 2 of 2), # <a href="#">15</a> Civil Cover Sheet)(Heath, Jason) (Filed on 1/29/2015) Modified on 2/3/2015 (sv, COURT STAFF). (Entered: 01/29/2015)
01/29/2015	<a href="#">2</a>	NOTICE by Greg Caput, Neal Coonerty, Zach Friend, John Leopold, Bruce McPherson, Santa Cruz County, Santa Cruz County Board of Supervisors re <a href="#">1</a> Notice of Removal,, <i>NOTICE TO ADVERSE PARTY OF REMOVAL OF CIVIL ACTION TO FEDERAL COURT</i> (Heath, Jason) (Filed on 1/29/2015) (Entered: 01/29/2015)
01/29/2015	<a href="#">3</a>	CERTIFICATE OF SERVICE by Greg Caput, Neal Coonerty, Zach Friend, John Leopold, Bruce McPherson, Santa Cruz County, Santa Cruz County Board of Supervisors re <a href="#">1</a> Notice of Removal,, <a href="#">2</a> Notice (Other), <i>OF NOTICE TO ADVERSE PARTY OF REMOVAL TO FEDERAL COURT</i> (Heath, Jason) (Filed on 1/29/2015) (Entered: 01/29/2015)
02/02/2015	<a href="#">4</a>	ANSWER to Complaint (Notice of Removal) <i>SCOTT M. JALBERTS ANSWER TO COMPLAINT</i> by Scott M. Jalbert. (Heath, Jason) (Filed on 2/2/2015) (Entered: 02/02/2015)
02/03/2015	5	Case assigned to Magistrate Judge Howard R. Lloyd. Counsel for plaintiff or the removing party is responsible for serving the Complaint or Notice of Removal, Summons and the assigned judge's standing orders and all other new case documents upon the opposing parties. For information, visit <i>E-Filing A New Civil Case</i> at <a href="http://cand.uscourts.gov/ecf/caseopening">http://cand.uscourts.gov/ecf/caseopening</a> . Standing orders can be downloaded from the court's web page at



1		www.cand.uscourts.gov/judges. Upon receipt, the summons will be issued and returned electronically. Counsel is required to send chambers a copy of the initiating documents pursuant to L.R. 5-1(e)(7). A scheduling order will be sent by Notice of Electronic Filing (NEF) within two business days. (sv, COURT STAFF) (Filed on 2/3/2015) (Entered: 02/03/2015)
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5	02/03/2015	<a href="#">10</a> <b>Initial Case Management Scheduling Order with ADR Deadlines: Case Management Statement due by 5/26/2015. Case Management Conference set for 6/2/2015 01:30 PM in Courtroom 2, 5th Floor, San Jose. (dhmS, COURT STAFF) (Filed on 2/3/2015) (Entered: 02/04/2015)</b>
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9	02/04/2015	<a href="#">6</a> CONSENT/DECLINATION to Proceed Before a US Magistrate Judge by Greg Caput, Neal Coonerty, Zach Friend, Scott M. Jalbert, John Leopold, Bruce McPherson, Santa Cruz County, Santa Cruz County Board of Supervisors.. (Heath, Jason) (Filed on 2/4/2015) (Entered: 02/04/2015)
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12	02/04/2015	<a href="#">7</a> CERTIFICATE OF SERVICE by Greg Caput, Neal Coonerty, Zach Friend, Scott M. Jalbert, John Leopold, Bruce McPherson, Santa Cruz County, Santa Cruz County Board of Supervisors re <a href="#">6</a> Consent/Declination to Proceed Before a US Magistrate Judge (Heath, Jason) (Filed on 2/4/2015) (Entered: 02/04/2015)
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16	02/04/2015	<a href="#">8</a> CLERK'S NOTICE of Impending Reassignment to U.S. District Judge (pmc, COURT STAFF) (Filed on 2/4/2015) (Entered: 02/04/2015)
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18	02/04/2015	<a href="#">9</a> <b>ORDER REASSIGNING CASE. Case reassigned to Hon. Beth Labson Freeman for all further proceedings. Magistrate Judge Howard R. Lloyd remains as the referral judge assigned to the case. Reassignment Order signed by Executive Committee on 2/4/2015. (bwS, COURT STAFF) (Filed on 2/4/2015) (Entered: 02/04/2015)</b>
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21	02/04/2015	Remarks: Clerk mailed copy of Reassignment Order to Pro Se party. (bwS, COURT STAFF) (Filed on 2/4/2015) (Entered: 02/04/2015)
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23	02/04/2015	<a href="#">11</a> MOTION to Remand Removed Action filed by Michael E Boyd. Motion Hearing set for 5/7/2015 09:00 AM in Courtroom 3, 5th Floor, San Jose before Hon. Beth Labson Freeman. Responses due by 2/18/2015. Replies due by 2/25/2015. (srmS, COURT STAFF) (Filed on 2/4/2015) (Entered: 02/04/2015)
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27	02/05/2015	<a href="#">12</a> MOTION to Dismiss filed by City of Santa Cruz. Motion Hearing set for 4/9/2015 09:00 AM in Courtroom 3, 5th Floor, San Jose before Hon. Beth Labson Freeman. Responses due by 2/19/2015. Replies due by 2/26/2015. (Kovacevich, George) (Filed on 2/5/2015) (Entered: 02/05/2015)
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30	02/05/2015	<a href="#">13</a> Request for Judicial Notice re <a href="#">12</a> MOTION to Dismiss filed by City of Santa Cruz. (Attachments: # <a href="#">1</a> Exhibit A)(Related document(s) <a href="#">12</a> ) (Kovacevich, George) (Filed on 2/5/2015) (Entered: 02/05/2015)
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32	02/05/2015	<a href="#">14</a> Appendix re <a href="#">12</a> MOTION to Dismiss <i>of Other Case Law in Support</i> filed



1		byCity of Santa Cruz. (Related document(s) <a href="#">12</a> ) (Kovacevich, George)
2		(Filed on 2/5/2015) (Entered: 02/05/2015)
3	02/10/2015	<a href="#">15</a> <b>CLERK'S NOTICE RESETTING HEARING as to <a href="#">12</a> MOTION to Dismiss , <a href="#">11</a> MOTION to Remand. Due to Noticed Motion without Reserved Hearing date the court resets Motion Hearings to the next available date. Motion Hearings set for 05/28/2015 at 09:00 AM before Judge Beth Labson Freeman. Initial Case Management Conference set for 5/28/2015 01:30 PM.</b> (tsh, COURT STAFF) (Filed on 2/10/2015) (tsh, COURT STAFF). (Additional attachment(s) added on 2/11/2015: # <a href="#">1</a> Clerks Notice) (tsh, COURT STAFF). (Entered: 02/10/2015)
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9	02/11/2015	<a href="#">16</a> Joinder IN CITY of Santa Cruz's MOTION TO DISMISS Plaintiff's Complaint pursuant to FRCP 12(b)(6) filed by SEMPERVIRENS FUND and FRED KEELEY. (Schmal, Timothy) (Filed on 2/11/2015) Text modified on 2/11/2015 conforming to posted document caption (bwS, COURT STAFF). (Entered: 02/11/2015)
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13	02/13/2015	<a href="#">17</a> Joinder <i>COUNTY DEFENDANTS JOINDER TO NOTICE OF REMOVAL</i> by Greg Caput, Neal Coonerty, Zach Friend, John Leopold, Bruce McPherson, Santa Cruz County, Santa Cruz County Board of Supervisors. (Heath, Jason) (Filed on 2/13/2015) (Entered: 02/13/2015)
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16	02/17/2015	<a href="#">18</a> Joinder re <a href="#">17</a> Joinder by City of Santa Cruz. (Kovacevich, George) (Filed on 2/17/2015) (Entered: 02/17/2015)
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18	02/18/2015	<a href="#">19</a> MOTION for Joinder <i>in Removal</i> filed by SEMPERVIRENS FUND and FRED KEELEY. (Schmal, Timothy) (Filed on 2/18/2015) (Entered: 02/18/2015)
19		
20	02/18/2015	<a href="#">20</a> <i>JOINDER TO NOTICE OF REMOVAL</i> . Filed by COLIN DISHEROOON. (Hopper, M.) (Filed on 2/18/2015) Modified on 2/18/2015 (srmS, COURT STAFF). (Entered: 02/18/2015)
21		
22	02/18/2015	<a href="#">21</a> RESPONSE (re <a href="#">11</a> MOTION to Remand ) <i>JALBERTS OPPOSITION TO PLAINTIFFS MOTION TO REMAND</i> filed byGreg Caput, Neal Coonerty, Zach Friend, Scott M. Jalbert, John Leopold, Bruce McPherson, Santa Cruz County, Santa Cruz County Board of Supervisors. (Heath, Jason) (Filed on 2/18/2015) (Entered: 02/18/2015)
23		
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25		
26	02/18/2015	<a href="#">22</a> Declaration of JASON M. HEATH in Support of <a href="#">21</a> Opposition/Response to Motion, <a href="#">11</a> MOTION to Remand filed byGreg Caput, Neal Coonerty, Zach Friend, Scott M. Jalbert, John Leopold, Bruce McPherson, Santa Cruz County, Santa Cruz County Board of Supervisors. (Attachments: # <a href="#">1</a> Exhibit A)(Related document(s) <a href="#">21</a> , <a href="#">11</a> ) (Heath, Jason) (Filed on 2/18/2015) (Entered: 02/18/2015)
27		
28		
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30	02/19/2015	<a href="#">23</a> MOTION for Joinder <i>IN CITY of Santa Cruz's MOTION TO DISMISS Plaintiff's Complaint pursuant to FRCP 12(b)(6)</i> filed by COLIN DISHEROOON. (Hopper, M.) (Filed on 2/19/2015) (Entered: 02/19/2015)
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02/19/2015	<a href="#">24</a>	CERTIFICATE OF SERVICE by COLIN DISHEROOON re <a href="#">20</a> Joinder to Notice of Removal (Hopper, M.) (Filed on 2/19/2015) Modified on 2/19/2015 (srmS, COURT STAFF). (Entered: 02/19/2015)
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**EXHIBIT 2**



**Case CISCV179607 - MICHAEL E BOYD V SANTA CRUZ COUNTY ET AL**

Viewed	Date	Action Text	Disposition
	02/16/2016 8:29 AM DEPT. 4	FURTHER CASE MANAGEMENT CONFERENCE	
	03/04/2015 8:30 AM DEPT. 4	HEARING RE DEMURRER TO COMPLAINT FILED 07/15/2014 OF MICHAEL BOYD FILED BY CITY OF SANTA CRUZ	OFF-CALENDAR
	02/27/2015 8:30 AM DEPT. 4	MOTION TO AMEND COMPLAINT BY LEAVE OF COURT FILED BY MICHAEL E BOYD	OFF-CALENDAR
	02/17/2015 8:29 AM DEPT. 4	FURTHER CASE MANAGEMENT CONFERENCE	COMPLETED
	02/04/2015	CASE MANAGEMENT CONFERENCE STATEMENT FILED BY MICHAEL E BOYD	Not Applicable
	02/04/2015	CASE MANAGEMENT CONFERENCE STATEMENT FILED BY SANTA CRUZ COUNTY	Not Applicable
	02/04/2015	PROOF OF SERVICE OF CASE MANAGEMENT CONFERENCE ON FRED KEELEY. METHOD OF SERVICE MAIL. DATE OF PERSONAL SERVICE OR MAILING 02/04/15	Not Applicable
	02/04/2015	PROOF OF SERVICE OF CASE MANAGEMENT CONFERENCE ON GEORGE KOVACEVICH. METHOD OF SERVICE MAIL. DATE OF PERSONAL SERVICE OR MAILING 02/04/15	Not Applicable
	02/04/2015	PROOF OF SERVICE OF CASE MANAGEMENT CONFERENCE ON JASON HEATH. METHOD OF SERVICE MAIL. DATE OF PERSONAL SERVICE OR MAILING 02/04/15	Not Applicable
	02/04/2015	PROOF OF SERVICE OF CASE MANAGEMENT CONFERENCE ON TIMOTHY SCHMAL. METHOD OF SERVICE MAIL. DATE OF PERSONAL SERVICE OR MAILING 02/04/15	Not Applicable
	02/04/2015	PROOF OF SERVICE OF CASE MANAGEMENT CONFERENCE ON KATHERINE BEIERS. METHOD OF SERVICE MAIL. DATE OF PERSONAL SERVICE OR MAILING 02/04/15	Not Applicable
	02/04/2015	PROOF OF SERVICE OF CASE MANAGEMENT CONFERENCE ON COLIN DISHEROON. METHOD OF SERVICE MAIL. DATE OF PERSONAL SERVICE OR MAILING 02/04/15	Not Applicable
	02/02/2015	NOTICE OF REMOVAL OF CASE TO FEDERAL COURT FILED BY SANTA CRUZ COUNTY. FEDERAL CASE NUMBER 15-CV-00405.	Not Applicable
	01/29/2015	FEE TAKEN FOR COPIES.	Not Applicable
	01/28/2015	PROOF OF SERVICE OF MOTION TO AMEND ON COLIN DISHEROON. METHOD OF SERVICE MAIL. DATE OF PERSONAL SERVICE OR MAILING 01/26/15	Not Applicable
	01/28/2015	PROOF OF SERVICE OF MOTION TO AMEND ON KATHERINE M BEIERS. METHOD OF SERVICE MAIL. DATE OF PERSONAL	Not Applicable



1		SERVICE OR MAILING 01/26/15	
2	01/28/2015	PROOF OF SERVICE OF MOTION TO AMEND ON TIMOTHY SCHMAL. METHOD OF SERVICE MAIL. DATE OF PERSONAL SERVICE OR MAILING 01/26/15	Not Applicable
3			
4	01/28/2015	PROOF OF SERVICE OF MOTION TO AMEND ON FRED KEELEY. METHOD OF SERVICE MAIL. DATE OF PERSONAL SERVICE OR MAILING 01/26/15	Not Applicable
5			
6	01/28/2015	PROOF OF SERVICE OF MOTION TO AMEND ON GEORGE KOVACEVICH. METHOD OF SERVICE MAIL. DATE OF PERSONAL SERVICE OR MAILING 01/26/15	Not Applicable
7			
8	01/28/2015	PROOF OF SERVICE OF MOTION TO AMEND ON DANA MCRAE. METHOD OF SERVICE MAIL. DATE OF PERSONAL SERVICE OR MAILING 01/26/15	Not Applicable
9			
10	01/28/2015	PROOF OF SERVICE OF MOTION TO AMEND ON SCOTT M JALBERT. METHOD OF SERVICE MAIL. DATE OF PERSONAL SERVICE OR MAILING 01/26/15	Not Applicable
11			
12	01/26/2015	PROPOSED FIRST AMENDED COMPLAINT RECEIVED FROM MICHAEL E BOYD.	Not Applicable
13	01/26/2015	SET FOR 2/27/15 AT 8:30 IN DEPT 4	
14	01/26/2015	MOTION TO/FOR AMEND COMPLAINT BY LEAVE OF COURT FILED BY MICHAEL E BOYD	
15	01/26/2015	NOTICE AND ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT FILED 07/15/2014 OF MICHAEL BOYD AS TO SEMPERVIRENS FUND FILED. SIGNED BY: TIMOTHY SCHMAL. DATE SIGNED: 01/18/15	Not Applicable
16			
17	01/21/2015	PROOF OF SERVICE (SUB-SERVICE) OF SUMMONS AND COMPLAINT FILED 07/15/2014 OF MICHAEL BOYD AS TO COLIN DISHEROON, BY SUB-SERVING MICHAEL SANTOS. MAILING DATE OF 01/09/15.	Not Applicable
18			
19	01/21/2015	PROOF OF SERVICE (PERSONAL) OF SUMMONS AND COMPLAINT FILED 07/15/2014 OF MICHAEL BOYD SERVED ON SCOTT M. JALBERT WITH SERVICE DATE OF 01/05/15	Not Applicable
20			
21	01/21/2015	PROOF OF SERVICE (PERSONAL) OF SUMMONS AND COMPLAINT FILED 07/15/2014 OF MICHAEL BOYD SERVED ON FRED KEELEY WITH SERVICE DATE OF 01/05/15	Not Applicable
22			
23	01/21/2015	PROOF OF SERVICE (PERSONAL) OF SUMMONS AND COMPLAINT FILED 07/15/2014 OF MICHAEL BOYD SERVED ON KATHERINE BEIERS WITH SERVICE DATE OF 01/09/15	Not Applicable
24			
25	01/16/2015	CITY OF SANTA CRUZ IS EXEMPT FROM FILING FEES (GOVERNMENT EXEMPTION).	Not Applicable
26	01/16/2015	SET FOR 3/04/15 AT 8:30 IN DEPT 4	
27	01/16/2015	DEMURRER TO COMPLAINT FILED 07/15/2014 OF MICHAEL BOYD FILED BY CITY OF SANTA CRUZ, REPRESENTED BY GEORGE KOVACEVICH	Not Applicable
28			
29	01/15/2015	RESERVED HEARING DATE FOR OSC/MOTION RE DEMURRER -CITY OF SC/GEORGE KOVACEVICH	Not Applicable
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31	01/05/2015	FEE TAKEN FOR COPIES.	Not Applicable
32	12/31/2014	PROOF OF SERVICE BY MAIL OF SUMMONS AND COMPLAINT FILED 07/15/2014 OF MICHAEL BOYD ON	Not Applicable

1		SEMPERVIRENS FUND. DATE OF MAILING 12/29/14	
2	12/19/2014	RESERVED HEARING DATE FOR OSC/MOTION RE AMEND COMP-PP MICHAEL BOYD	Not Applicable
3	12/19/2014	PROOF OF SERVICE (PERSONAL) OF SUMMONS AND COMPLAINT FILED 07/15/2014 OF MICHAEL BOYD SERVED ON CITY OF SANTA CRUZ WITH SERVICE DATE OF 12/17/14	Not Applicable
4	12/05/2014	AMENDMENT TO COMPLAINT FILED 07/15/2014 OF MICHAEL BOYD FILED; NAMING DOE/ROE 1 AS CITY OF SANTA CRUZ, PAMELA COMSTOCK, DAVID TERRAZAS, HILARY BRYANT, LYNN ROBINSON, DON LANE, CYNTHIA MATHEWS, MICAH POSNER, RICK MARTINEZ, CHARLES PREVEDELLI	Not Applicable
5	11/13/2014 8:29 AM DEPT. 4	CASE MANAGEMENT CONFERENCE	COMPLETED
6	11/13/2014 8:29 AM DEPT. 4	CASE MANAGEMENT CONFERENCE	COMPLETED
7	11/06/2014	RESERVED HEARING DATE FOR OSC/MOTION RE AMEND COMP-PL PP MICHAEL BOYD	Not Applicable
8	11/03/2014	PROOF OF SERVICE OF CASE MANAGEMENT CONFERENCE ON DANA MCRAE, COUNTY COUNSEL. METHOD OF SERVICE MAIL. DATE OF PERSONAL SERVICE OR MAILING 11/03/14	Not Applicable
9	11/03/2014	CASE MANAGEMENT CONFERENCE STATEMENT FILED BY MICHAEL E BOYD	Not Applicable
10	10/30/2014	CASE MANAGEMENT CONFERENCE STATEMENT FILED BY SANTA CRUZ COUNTY, SANTA CRUZ COUNTY BOARD OF SUPERVISORS, JOHN LEOPOLD, ZACH FRIEND, NEAL COONERTY, GREG CAPUT, BRUCE MCPHERSON	Not Applicable
11	10/10/2014 8:30 AM DEPT. 4	MOTION FOR DEFAULT JUDGMENT AND TO SET ASIDE ANSWER TO COMPLAINT FILED BY MICHAEL E BOYD	COMPLETED
12	09/26/2014	OPPOSITION TO MOTION FOR ENTRY OF DEFAULT JUDGMENT FILED BY SANTA CRUZ COUNTY	Not Applicable
13	09/11/2014	PROOF OF SERVICE OF MOTION FOR ENTRY JUDGMENT AND TO SET ASIDE ON SANTA CRUZ COUNTY COUNSEL. METHOD OF SERVICE MAIL. DATE OF PERSONAL SERVICE OR MAILING 08/18/14	Not Applicable
14	09/11/2014	SET FOR 10/10/14 AT 8:30 IN DEPT 4	
15	09/11/2014	MOTION TO/FOR ENTRY OF DEFAULT JUDGMENT AND TO SET ASIDE ANSWER TO THE COMPLAINT FILED BY MICHAEL E BOYD	
16	08/28/2014	RESERVED HEARING DATE FOR OSC/MOTION RE SET ASIDE ANS/FILE DEF-PP MICHAEL BOYD	Not Applicable
17	<i>Viewed</i>	<i>Date</i>	<i>Action Text</i>
18			<i>Disposition</i>
19	08/20/2014	SANTA CRUZ COUNTY, SANTA CRUZ COUNTY BOARD OF SUPERVISORS, JOHN LEOPOLD, ZACH FRIEND, NEAL COONERTY, GREG CAPUT, BRUCE MCPHERSON IS EXEMPT FROM FILING FEES (GOVERNMENT EXEMPTION).	Not Applicable

1		(U) ANSWER TO COMPLAINT FILED 07/15/2014 OF MICHAEL BOYD	
2	08/20/2014	FILED BY SANTA CRUZ COUNTY, SANTA CRUZ COUNTY BOARD	Not
3		OF SUPERVISORS, JOHN LEOPOLD, ZACH FRIEND, NEAL	Applicable
4		COONERTY, GREG CAPUT, BRUCE MCPHERSON, REPRESENTED	
5		BY DANA MCRAE	
6	08/19/2014	PROOF OF SERVICE OF REQUEST FOR ENTRY OF DEFAULT ON	Not
7		SANTA CRUZ COUNTY COUNSEL. METHOD OF SERVICE MAIL.	Applicable
8		DATE OF PERSONAL SERVICE OR MAILING 08/19/14	
9	08/19/2014	REQUEST TO ENTER DEFAULT PRESENTED BY MICHAEL E BOYD	Not
10		RETURNED - DEFAULT NOT ENTERED - REASON PROPER PROOF	Applicable
11		OF SERVICE NOT ON FILE FOR DEFENDANTS	
12	08/19/2014	REQUEST FOR ENTRY OF DEFAULT & JUDGMENT RECEIVED	Not
13		FROM MICHAEL E BOYD.	Applicable
14	07/15/2014	PROOF OF SERVICE BY MAIL OF SUMMONS AND COMPLAINT	Not
15		FILED 07/15/2014 OF MICHAEL BOYD ON SANTA CRUZ COUNTY.	Applicable
16		DATE OF MAILING 07/15/14	
17	07/15/2014	ORDER ON APPLICATION FOR WAIVER OF FEES FILED BY	GRANTED
18		MICHAEL E BOYD GRANTED IN THE AMOUNT OF \$435.00.	
19	07/15/2014	APPLICATION FOR WAIVER OF COURT FEES AND COSTS FILED	
20		BY MICHAEL E BOYD.	
21	07/15/2014	CASE MANAGEMENT CONF SET ON 11/13/14 AT 8:29 IN DEPT 4	
22	07/15/2014	(U) COMPLAINT FILED	Not
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**EXHIBIT 3**

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**nChart Note**

**Dominican Medical Group**  
**1595 Soquel Drive ~Suite 110**  
**Santa Cruz CA 95065**  
**(831) 462-4444**

**Patient:** MICHAEL E. BOYD MRN: 10497749  
5439 SOQUEL DR. WMH MRN: ARCHIVED  
SOQUEL, CA 95073 Sex: M  
**Home:** (831) 465-9809  
**Work:** (408) 325-4690

**Encounter Date:** Feb 11 2015 10:15AM

**Reason For Visit**

New patient presents for back and shoulder pain. Patient was referred by Dr. Chen....lcolfer/cma.

**HPI**

Pleasant 57-year-old male with neck and right arm pain on and off for the last 5 years  
Pain is dull, achy, throbbing, with occasional numbness to right arm  
also notices muscle spasm in peri-scap muscles on right  
7 out of 10, worse with lack of exercise and with driving, better with the medications  
Try meloxicam, made him feel too sleepy  
Has seen Dr. Patel for this in the past who did an MRI as well as EMG  
Has done well with conservative management previously including chiropractic which she is fond of  
Denies any weakness, bowel or bladder changes, weight changes, recent trauma or falls.

**Allergies**

Rec: 21Jan2015. List Reconciled and Reviewed.  
No Known Drug Allergy.

**Current Meds**

Rec: 21Jan2015. List Reconciled and Reviewed.  
AeroChamber Plus Flow VU Miscellaneous;as directed; Rx  
Lisinopril 10 MG Oral Tablet;TAKE 1 TABLET DAILY.; Rx  
\* pt informed to sched appt for further fills, 22 Sep 2011  
Simvastatin 40 MG Oral Tablet;TAKE 1 TABLET BY MOUTH DAILY; Rx  
Pantoprazole Sodium 40 MG Oral Tablet Delayed Release;TAKE 1 TABLET ORALLY EVERY DAY; Rx  
Montelukast Sodium 10 MG Oral Tablet;TAKE 1 TABLET ORALLY DAILY; Rx  
TrueTrack Blood Glucose Device;USE AS DIRECTED.; Rx  
TrueTrack Blood Glucose w/Device Kit;use 3-4 times as directed; Rx  
TrueTrack Test In Vitro Strip;test 3 to4 times daily; Rx  
Meloxicam 15 MG Oral Tablet;TAKE 1 TABLET DAILY PRN pain or inflammation; Rx  
Minocycline HCl - 100 MG Oral Capsule;TAKE 1 CAPSULE TWICE DAILY.; Rx.

**PMH**

Diabetes  
Hiatal hernia  
Hypertension  
High cholesterol.

**PSH**

Patient denies.

**Family Hx**

Father: cancer.

**Personal Hx**

Smoked in the past, quit > 10 years ago  
Uses medical marijuana  
Not working

nChart Note

Patient: MICHAEL E. BOYD  
Encounter: Feb 11 2015 10:15AM

Employed as engineer.

ROS

10 point review of systems performed and pertinent positives and negatives per HPI and PMH. Additional per intake form.

Vital Signs

Adult Male Vital Signs Recorded by Colfer, Lauren on February 11,2015 10:23 AM  
BP: 125/82 mm Hg Left Upper Extremity Sitting  
HR: 88 b/min ;  
O2 Sat: 97 (%SpO2)

Results

MR Cspine 2010: Small right paracentral disc protrusions at C5/6 and C6/7 with mild to moderate neuroforaminal narrowing, no significant central canal stenosis, no cord signal changes, overall alignment appears normal, no severe spondylosis.

Physical Exam

CV: distal pulses regular and symmetric, no LE edema  
RESP: non-labored breathing, no wheeze or cough, no accessory muscle use  
GI: soft, NT, ND  
Skin: intact, no rash  
MSK:  
Strength: (R/L)  
UE C5 (biceps) 5/5  
C6 (ECRL) 5/5  
C7 (triceps) 5/5  
C8 (FDP) 5/5  
T1 (ADM) 5/5

ROM: cervical range is minimally reduced in all planes; shoulder range is normal and symmetric  
Palpation: Right mid traps and right latissimus mildly tender and in spasm

NEURO:

Mental Status: Alert, oriented, and appropriate  
Cranial Nerves: no facial asymmetry, EOMI

Reflexes: R/L

Biceps 2/2  
BR 2/2  
Triceps 2/2

Tone: No increased tone  
Hoffmans: negative bilateral hands

Sensation: normal to light touch throughout bilat UE except reduced to light touch, not pinprick, at right C7 dermatome

Gait: normal, no assistive device, able to heel/toe/tandem walk without difficulty

Special tests: Negative Spurlings, Hawkins, Supraspinatus isolation test

Assessment



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**nChart Note**

Patient: MICHAEL E. BOYD  
Encounter: Feb 11 2015 10:15AM

Employed as engineer.

Cervical radiculopathy (723.4).  
Myalgia and myositis (729.1).  
Cervical disc herniation (722.0).

**Orders**

Physical Therapy Referral; Requested for: 11 Feb 2015  
\*Alliance PT; 11 Feb 2015.

**Discussed**

This essentially is a flareup of the same issue you had in the past, nerve irritation coming from the small disc protrusions in the neck that we saw on your MRI.

Since you have done well with manual therapy in the past including chiropractic, we'll have the physical therapist work on this as well as posture, body mechanics, and range of motion.

The goal is to reduce flareup duration and intensity

Okay to continue meloxicam if needed.

Start baclofen as prescribed.

Follow-up in 6-8 weeks

No new imaging for nerve tests needed at this time.

**Plan**

Some subtle sensory changes in the right C7 dermatome, no weakness however  
Suspect he will do well with conservative management  
Has done well with chiropractic in the past, no longer covered by insurance.

**Signature**

Electronically signed by : Matthew Ryan D.O.; 02/11/2015 12:23 PM PST; Author.

Matthew Ryan D.O.



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Patient Name: BOYD, MICHAEL  
Imaging  
Accession Number: 209578  
Referring Physician: MILAN PATEL, MD

Santa Cruz Comprehensive  
Phone #: 831-476-7711

Exam Date: 06/02/2010

Exam Name: MRI Cervical Spine

Clinical history: Cervical radiculopathy.

Technique: Utilizing a 0.7 Tesla "open MRI" the following sequences were obtained: Sagittal FSE T1, sagittal FSE T2, axial 2D gradient echo, axial 3D thin sectioned T2\* gradient echo. Additional sagittal fast inversion recovery sequence was also performed.

Findings: There is normal alignment of the cervical spine. Disc space narrowing and degenerative endplate signal changes are noted particularly in the rightward aspect from C4 through C7. Cervical spinal cord demonstrates normal signal intensity and normal caliber throughout and the craniocervical junction is normal.

At C2-3 there is no central stenosis. There is some bilateral facet arthropathy narrowing the neural foramen but no significant stenosis. At least some mild narrowing noted on the right.

At C3-4 no significant central or foraminal stenosis.

At C4-5 no central canal narrowing and the neural foramina are widely patent.

At C5-6 there is some posterior disc osteophyte complex on the right with some uncovertebral spurring. This is associated with bilateral facet arthropathy. Uncovertebral spurring is also seen on the left. Overall there is at least mild central canal narrowing. The central canal measures 9-10 mm.

At C6-7 there is posterior disc osteophyte complex. This minimally narrows the

1  
2 central canal. Facet arthropathy is also present and again contributes to left  
3 greater than right foraminal narrowing. There is mild narrowing of the neural  
4 foramen on the right with at least moderate to severe on the left.

5 At the C7-T1 level there is no significant central or foraminal stenosis.

6 **Impression:** Degenerative changes of the mid-to-lower cervical spine  
7 particularly at the C5-6 and C6-7 levels. There may be a disc or osteophyte  
8 complex at the ostium of the right C5-6 neural foramen contributing to  
9 foraminal stenosis but uncovertebral spurring and facet hypertrophy also  
10 contribute to left foraminal stenosis. Left greater than right foraminal  
11 stenosis also seen at the C6-7 level again due to uncovertebral but  
12 predominantly facet arthropathy.

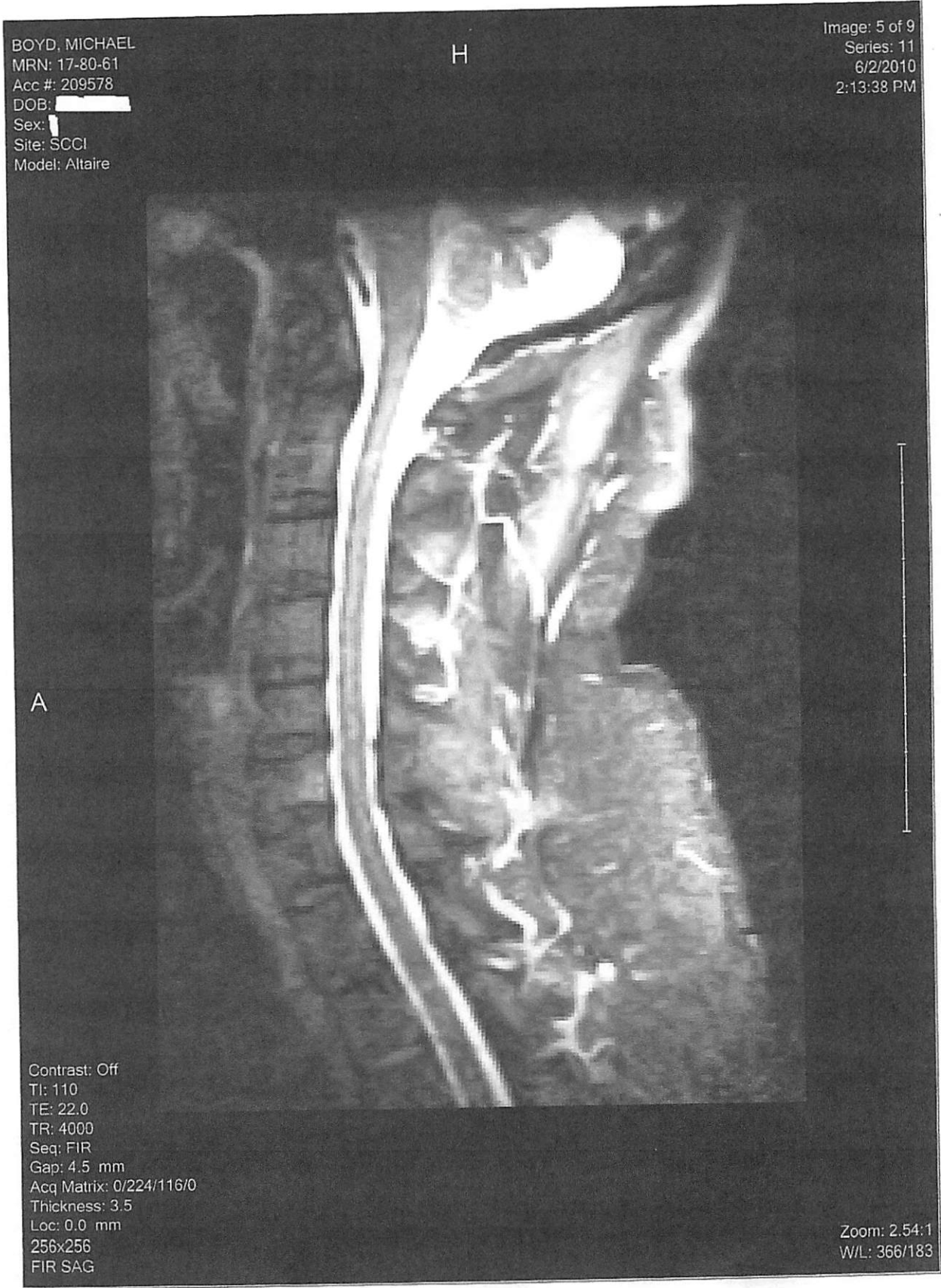
13 Electronically Signed on 6/3/2010 5:18 PM  
14 Reading Radiologist: A. Janelle Rasi, M.D.

15 cc: Robert Chen, MD

16 Confidentiality Notice: This information accompanying this facsimile  
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23 476-2569.

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**AFFIDAVITE OF MICHAEL E. BOYD**

I, Michael E. Boyd, hereby declare under penalty of perjury that I am submitting the foregoing PLAINTIFF’S REPLY TO OPPOSITION TO MOTION TO REMAND, and Exhibits thereto, which was prepared by me or under my direction, and that the contents hereof are true and correct to the best of my knowledge, information, and belief.

DATED: February 24, 2015

By:   
Michael E. Boyd

Plaintiff, in *Pro Per*  
Michael E. Boyd  
5439 Soquel Drive  
Soquel, CA 95073  
Phone: (408) 891-9677  
E-mail: michaelboyd@sbcglobal.net



**CERTIFICATE OF SERVICE**

**BOYD v. Santa Cruz County et al.**

**USDC, Northern California, Case No. 5:15-CV-00405 HRL**

I undersigned, declare that I am over the age of 18 and am not a party to this action.

On the date below I served a copy of the following document: PLAINTIFF'S REPLY TO OPPOSITION TO MOTION TO REMAND, and Exhibits thereto on all interested parties in said case not served via the Court's CM/ECF system addressed as follows: I served the documents by the following method(s):

U.S. MAIL. The document(s) listed above were placed in a sealed envelope with postage thereon fully prepaid, in the United States mail, addressed as set forth is:

George Kovacevich-Attorney City of Santa Cruz et al.  
Atchison Barisone Condotti & Kovacevich  
A Professional Corporation  
PO Box 481  
Santa Cruz, CA 95061

Jason Heath-County Counsel, County of Santa Cruz et al.  
701 Ocean St., Rm. 505  
Santa Cruz , Ca 95060

Attorney for Sempervirens Fund and Fred Keeley  
Timothy James Schmal , Esq.  
Schmal Law  
501 Mission Street, Suite 10  
Santa Cruz, CA 95060

Katherine M. Beiers  
135 Gharkey St.  
Santa Cruz, CA 95060

Attorney for Colin Disheroon  
M. Allen Hopper  
Law Offices of M. Allen Hopper  
P.O. Box 957  
Santa Cruz, CA 95061

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Michael E. Boyd

Print Name

Signature

Executed on this 24<sup>th</sup> day of February 2015 at Soquel, California