

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

MARIE MITCHELSON,)	
)	
Plaintiff,)	
)	
v.)	Case No. 16-2425-JWL
)	
MICHAEL LEE LOSCHKE and)	
RANCHMART ACE HARDWARE,)	
)	
Defendants.)	

ORDER

This matter comes before the court upon the joint motion of plaintiff Marie Mitchelson and defendant Ranchmart Ace Hardware (ECF doc. 16) for an order requesting the Overland Park Police Department to produce a copy of its file concerning defendant Michael Lee Loschke.¹ For the reasons stated below, the motion is denied.

The Overland Park Police Department, from whom the documents are being sought, is not a party in this action. Therefore, the court has no jurisdiction over it to order production of the requested records. Fed. R. Civ. P. 45 provides that a party may obtain documents from a non-party by service of subpoena for the production of documentary evidence. Thus, the records might be obtained by issuance of a subpoena, pursuant to a

¹Mr. Loschke has not entered an appearance in this case. The court has been informed that he is scheduled to go to trial in December 2016, in the District Court of Johnson County, Kansas, on an assault charged related to this civil litigation. See ECF doc. 10 at 1–2.

notice to take depositions, under Fed. R. Civ. P. 30. Alternately, should the parties submit a proposed agreed order approved and signed by the Overland Park City Attorney, the court would likely be inclined to approve it.

Dated November 22, 2016, at Kansas City, Kansas.

s/ James P. O'Hara
James P. O'Hara
U.S. Magistrate Judge