Doe v. Boys Club of America, Inc. et al. 22CV05122
Hearing Date: April 16, 2024
Motion to Quash Service

AMENDED PROPOSED TENTATIVE

The court posted its original tentative on March 1, 2024, for hearing on March 5, 2024. On the day of the hearing defendant Boys & Girls Club of America (defendant) filed a written objection to plaintiff's John Doe's Exhibit A and Exhibit B, attached to its opposition, which consisted of defendant's Key Government Documents, amended May 16, 2009, and ratified August 6, 2009. Plaintiffs admitted at the hearing that these were the wrong governing documents, and counsel for both sides stipulated to correcting the mistake, culminating in a stipulation filed on March 20, 2024, that the governing documents were from 1978, not 2009. Attached to the stipulation was Exhibit 2, which includes documents titled "Boys Clubs of America Congressional Charter"; its "Constitution"; the "Requirements for Membership" and "Membership Dues." The court will treat this submission as mooting defendant's supplemental evidentiary objections filed on March 5, 2024. The court allowed supplemental briefing as to the significance of the error, and the court continued the matter to April 16, 2024. Both parties filed supplemental briefing on March 29, 2024, which has been reviewed. Defendant in addition has filed a new request for judicial notice.

The court issues this new tentative based on the parties' conceded errors and new submissions.

A) Factual Background and Procedure

On October 11, 2023, plaintiff John Doe #1 S.C. filed a first amended complaint against defendants Boys Club of America, Inc., and Boys & Girls Club of Santa Barbara County – Lompoc Unit, advancing seven causes of action against both defendants: 1) sexual abuse of minor; 2) intentional infliction of emotional distress; 3) sexual harassment based on violations of Civil. Code sections 51.9 and 52; 4) negligence; 5) negligent supervision; 6) a violation of civil rights pursuant to Civil Code section 51.2; and 7) battery. Plaintiff is currently 46 years old, and the causes of action are based on alleged childhood sexual abuse by a perpetrator under the direct authority of defendants when plaintiff was a minor member (at 7 years old) "beginning in or around 1984." As relevant for our purposes, defendant Boys Club of America, Inc. (hereafter, Boys Club or defendant) was served on December 18, 2023, with the summons and first amended complaint, amongst other documents, by personal service on Jason Ellis, Director of Business and Facility Operations, in Atlanta Georgia. Plaintiff explains that he was abused by a female counselor employed by the United Boys & Girls Club of Santa Barbara County - Lompoc Unit. No answer has been filed by defendants.

On January 30, 2024, Boys Club filed a motion to quash the summons and first amended complaint pursuant to Code of Civil Procedure section 418.10, subdivision (a) for lack of personal jurisdiction. Defendant has attached to the memorandum a declaration from attorney Molshree Gupta, which contains Exhibits A1 to Exhibit H, as well as a request to take judicial notice. On February 2, 2024, Boys Club filed an amended notice of motion and motion to quash, with the same exhibits as noted above. The court will treat the latter as the operative motion for all relevant purposes. On February 21, 2024, plaintiff filed opposition, and its own request for judicial notice. On February 28, 2024, defendant filed a reply, along with evidentiary objections. All briefing has been assessed.

The court will detail the general legal principles that frame and govern the issues raised; address both requests for judicial notice, as well as defendant's evidentiary objections; and then address the merits. The court will conclude with a summary of its conclusions.

B) Legal Background

"California courts may exercise personal jurisdiction on any basis consistent with the Constitutions of California and the United States." (*Pavlovich v. Superior Court* (2002) 29 Cal.4th 262, 268; Code Civ. Proc., § 410.10.) A state court's assertion of personal jurisdiction over a nonresident defendant who has not been served with process within the state comports with the requirements of the due process clause of the federal Constitution if the defendant has such minimum contacts with the state that the assertion of jurisdiction does not violate traditional notions of fair play and substantial justice. (*Vons Companies, Inc. v. Seabest Foods, Inc.* (1996) 14 Cal.4th 434, 444 (*Vons*); *Ford Motor Company v. Montana Eighth Judicial Dist. Court* (2021) 592 U.S. ——, 141 S.Ct. 1017, 1024.)

"When a defendant moves to quash service of process on jurisdictional grounds, the plaintiff has the initial burden of demonstrating facts justifying the exercise of jurisdiction. [Citation.] Once facts showing minimum contacts with the forum state are established, however, it becomes the defendant's burden to demonstrate that the exercise of jurisdiction would be unreasonable. [Citation.] When there is conflicting evidence, the trial court's factual determinations are not disturbed on appeal if supported by substantial evidence. [Citation.] When no conflict in the evidence exists, however, the question of jurisdiction is purely one of law and the reviewing court engages in an independent review of the record. [Citation.]" (*Vons, supra*, 14 Cal.4th at p. 449.) Moreover, "whenever conflicting evidence is presented in affidavits on a motion to quash, it is presumed the trial court resolved such conflicts against the appellant and in support of its order." (*Kroopf v. Guffey* (1986) 183 Cal.App.3d 1351, 1359.) "An unverified complaint has no evidentiary value in meeting the plaintiff's burden of proving minimum contacts. [Citation.] The appellate court generally may not consider evidence not before the trial court." (*DVI, Inc. v. Superior Court* (2002) 104 Cal.App.4th 1080, 1090–1091.)

"Personal jurisdiction may be either general or specific." (*Vons, supra*, 14 Cal.4th at p. 445.) A defendant that has substantial, continuous, and systematic contacts with the forum state is subject to general jurisdiction in the state, meaning jurisdiction on any cause of action. (*Perkins v. Benguet Mining Co.* (1952) 342 U.S. 437, 445–446; see *Vons, supra,* 14 Cal.4th at p. 445.) For a corporation, its domicile, place of incorporation, and/or principal place of business within a state constitute the paradigm bases for establishing general jurisdiction. (*Goodyear Dunlop Tires Operations, S.A. v. Brown* (2011) 564 U.S. 915, 924.) A defendant corporation's substantial sales in a state are insufficient to establish general jurisdiction, as the general jurisdiction analysis turns on the nature of the defendant's *continuous* corporate operations within a state. (*Daimler*, at pp. 138–139.) Absent such extensive contacts, a defendant may be subject to specific jurisdiction, meaning jurisdiction in an action arising out of or related to the defendant's contacts with the forum state. (*Helicopteros Nacionales de Colombia v. Hall* (1984) 466 U.S. 408, 414, fn. 8,; *Vons, supra,* 14 Cal.4th at p. 446.)

Specific jurisdiction depends on the quality and nature of the defendant's forum contacts in relation to the particular cause of action alleged. (*Cornelison v. Chaney* (1976) 16 Cal.3d 143, 147–148.) A nonresident defendant is subject to specific personal jurisdiction only if (1) the defendant purposefully availed itself of the benefits of conducting activities in the forum state; (2) the controversy arises out of or is related to the defendant's forum contacts; and (3) the exercise of jurisdiction would be fair and reasonable. *Pavlovich v. Superior Court (*2002) 29 Cal.4th 262, 269.) "These guidelines are not susceptible of mechanical application, and the jurisdictional rules are not clear-cut. Rather, a court must weigh the facts in each case to determine whether the defendant's contacts with the forum state are sufficient. (*Burger King Corp. v. Rudzewicz* (1985) 471 U.S. 462, 478–479, 486, fn. 29; *Vons, supra,* 14 Cal.4th at p. 450; see also *HealthMarkets, Inc. v. Superior Court* (2009) 171 Cal.App.4th 1160, 116; *Bridgestone Corp. v. Superior Court* (2002) 99 Cal.App.4th 767, 774.)

Within these general rules, case law indicates that a parent company's ownership or control of a subsidiary corporation does not, without more, subject the parent corporation to personal jurisdiction of the state where the subsidiary does business. (*DVI, Inc. v. Superior Court* (2002) 104 Cal.App.4th 1080, 1087; *HealthMarkets, supra,* 171 Cal.App.4th at p. 1169.) That being said, a parent holding company may be subject to general jurisdiction only under limited circumstances, looking to the alter ego relationship or the parent's exercise of such a degree of control of the subsidiary as to reflect the parent's purposeful disregard of the subsidiary's independent corporate existence. (*Id.* at p. 542; see also *VirtualMagic Asia, Inc. v. Fil–Cartoons, Inc.* (2002) 99 Cal.App.4th 228, 244.) That is, when "the nonresident defendant is a parent corporation of a subsidiary which does business in California, the minimum contacts may be direct between the parent and the state, or imputed to the parent via its subsidiary. General jurisdiction over a local subsidiary extends to the foreign parent under an alter ego theory, general principles of agency, or under the representative services doctrine, a narrow species of agency." (*BBA Aviation PLC v. Superior Court* (2010) 190 Cal.App.4th 421, 429;

Sonora Diamond Corp. v. Superior Court (2000) 83 Cal.App.4th 523, 540 [describing circumstances that will subject a parent corporation to general jurisdiction based upon its subsidiaries' contacts with the forum].)[1] Some courts have concluded that the principles of alter ego, agency and representatives services (as discussed above for general jurisdiction) may also justify the exercise of special jurisdiction over a nonresident defendant. (*HealthMarkets supra,* 171 Cal.App.4th at p. 1169 [citing cases].)

Other courts have rejected the notion that the test for personal jurisdiction is the same test for whether an agency or alter ego relationship exists, looking to the law of specific jurisdiction generally and purposeful availment specifically. (*HealthMarkets, supra,* 171 Cal.App.4th at p. 1167.) " '[R]eliance on state substantive law of agency and alter ego to determine the constitutional limits of specific personal jurisdiction is unnecessary and is an imprecise substitute for the appropriate jurisdictional question. The proper jurisdictional question is not whether the defendant can be liable for the acts of another person or entity under state substantive law, but whether the defendant has purposefully directed its activities at the forum state by causing a separate person or entity to engage in forum contacts.' (*Id.* at p. 983; see also *Anglo Irish Bank Corp. PLC v. Superior Court* (2008) 165 Cal.App.4th 969, 983. [reliance on state law of agency and alter ego to determine the constitutional limits of specific personal jurisdiction was an imprecise substitute for the appropriate jurisdictional question].) "We reaffirm that conclusion here and conclude that purposeful availment by a parent company through the acts of its subsidiary must be evaluated under the rule that we have stated." (*HealthMarkets, supra,* 171 Cal.App.4th at p. 1170.)

Under this specific jurisdiction raiment, courts have reaffirmed the firm rule that ownership of a subsidiary alone does not subject a nonresident parent company to specific personal jurisdiction based on the subsidiary's forum contacts. (*SK Trading, supra*, 77 Cal.App.5th at p. 388 [" ' "neither ownership nor control of a subsidiary corporation by a foreign parent corporation, without more, subjects the parent to the jurisdiction of the state where the subsidiary does business" ' "].) Further, ownership of a subsidiary alone does not constitute purposeful availment. (*Ibid*.)

Instead, purposeful availment requires some manner of deliberately directing the subsidiary's activities in, or having a substantial connection with, the forum state. "A parent

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[1] "Ordinarily, a corporation is regarded as a legal entity, separate and distinct from its stockholders, officers and directors, with separate and distinct liabilities and obligations. [Citations.] A corporate identity may be disregarded–the 'corporate veil' pierced–where an abuse of the corporate privilege justifies holding the equitable ownership of a corporation liable for the actions of the corporation. [Citation.] Under the alter ego doctrine, then, when the corporate form is used to perpetrate a fraud, circumvent a statute, or accomplish some other wrongful or inequitable purpose, the courts will ignore the corporate entity and deem the corporation's acts to be those of the persons or organizations actually controlling the corporation, in most instances the equitable owners. [Citations.] The alter ego doctrine prevents individuals or other corporations from misusing the corporate laws by the device of a sham corporate entity formed for the purpose of committing fraud or other misdeeds." (*Sonora Diamond*, *supra*, 83 Cal.App.4th at p. 538.)

company purposefully avails itself of forum benefits through the activities of its subsidiary, as required to justify the exercise of specific personal jurisdiction, if and only if the parent deliberately directs the subsidiary's activities in, or having a substantial connection with, the forum state. Only in those circumstances should the parent company "reasonably anticipate being haled into court" in the forum state based on the activities of its subsidiary. (*HealthMarkets, supra,* 171 Cal.App.4th at p. 1169.) That is, the purposeful availment inquiry "focuses on the defendant's intentionality. [Citation.] This prong is only satisfied when the defendant purposefully and voluntarily directs [its] activities toward the forum so that [it] should expect, by virtue of the benefit [it] receives, to be subject to the court's jurisdiction based on" [its] contacts with the forum. [Citation.]' [Citation.] [¶] '[P]urposeful availment occurs where a nonresident defendant " 'purposefully direct[s]' [its] activities at residents of the forum" [citation], " 'purposefully derive[s] benefit' from" its activities in the forum [citation], "create[s] a 'substantial connection' with the forum" [citation], " 'deliberately' has engaged in significant activities within" the forum [citation], or "has created 'continuing obligations' between [itself] and residents of the forum" [citation]. By limiting the scope of a forum's jurisdiction in this manner, the " 'purposeful availment' requirement ensures that a defendant will not be haled into a jurisdiction solely as a result of 'random,' 'fortuitous,' or 'attenuated' contacts. . . . " [Citation.] Instead, the defendant will be subject to personal jurisdiction only if " 'it has clear notice that it is subject to suit there, and can act to alleviate the risk of burdensome litigation by procuring insurance, passing the expected costs on to customers, or, if the risks are too great, severing its connection with the state.' " ' " (*Id*. at p. 1168.) To exercise specific jurisdiction over a claim, "there must be an 'affiliation between the forum and the underlying controversy, principally, [an] activity or an occurrence that takes place in the forum State.' [Citation.] When there is no such connection, specific jurisdiction is lacking regardless of the extent of a defendant's unconnected activities in the State." (*Bristol-Myers*, *supra*, 582 U.S. at p. 264.) In other words, specific jurisdiction depends on "the quality and nature of the defendant's forum contacts in relation to the particular cause of action alleged." (*Anglo Irish Bank Corp., supra,* 165 Cal.App.4th at p. 978.)

The requirement that the current controversy be related to or arise out of the defendant's contacts with forum was first articulated for our immediate purposes by the California Supreme Court in *Vons*, which in fact adopted two tests. Our high court in *Vons* noted initially that " 'if there is a substantial nexus or connection between the defendant's forum activities and the plaintiff's claim.' [Citations.] 'A claim need not arise directly from the defendant's forum contacts in order to be sufficiently related to the contact to warrant the exercise of specific jurisdiction. Rather, as long as the claim bears a substantial connection to the nonresident's forum contacts, the exercise of specific personal jurisdiction is appropriate.' " The *Vons* court ***also*** adopted what it later referred to as a "sliding scale" approach to specific jurisdiction, holding, "[F]or the purpose of establishing jurisdiction the intensity of forum contacts and the connection of the claim to those contacts are inversely related." (*Ibid*..)

In *Bristol-Myers Squibb Co. v. Superior Court of California* (2017) 582 U.S. 255, the United States Supreme Court rejected the California Supreme Court's " 'sliding scale' " approach, which it characterized as an approach pursuant to which the strength of the requisite connection between the forum and the plaintiff's claims is relaxed if the defendant has extensive forum contacts unrelated to those claims. (*Bristol-Myers*, *supra*, 137 S.Ct. at p. 1781; see *Bader v. Avon Products, Inc.* (2020) 55 Cal.App.5th 186, 195.) For specific jurisdiction, neither "a defendant's general connections with the forum" nor " 'continuous activity of some sorts within [the] state' " is " 'enough.' " (*Ibid*.) "In order for a court to exercise specific jurisdiction over a claim, 'there must be an 'affiliation between the forum and the underlying controversy, principally, [an] activity or an occurrence that takes place in the forum State.' [Citation.] When there is no such connection, specific jurisdiction is lacking regardless of the extent of a defendant's unconnected activities in the State." (*Ibid.*, quoting *Goodyear Dunlop Tires Operations, S. A. v. Brown* (2011) 564 U.S. 915, 930–931, fn. 6 ["[E]ven regularly occurring sales of a product in a State do not justify the exercise of jurisdiction over a claim unrelated to those sales"]; see *Bader v. Avon Products, Inc.* (2020) 55 Cal.App.5th 186, 195.)[2]

The test after *Bristol Myers* and progeny is thus commensurate with the "substantial connection" test first articulated in *Vons* -- that is, even assuming arguendo that defendants had purposefully availed itself of California as a forum -- specific jurisdiction is only appropriate if the "specific claims at issue" arise out of," "relate to" or "have a substantial connection with" defendants' contacts with California. (*Bristol-Myers*, *supra*, 137 S.Ct. at pp. 1780, 1781; *Goodyear*, *supra*, 564 U.S. at p. 919 [requiring " 'an affiliatio[n] between the forum and the underlying controversy' "]; *Vons*, *supra*, 14 Cal.4th at p. 448.) Cases discussing these standards are commensurate with this. (*Bader, supra,* 55 Cal.App.5th at p. 195; *Jacqueline B. v. Rawls Law Group, P.C.* (2021) 68 Cal.App.5th 243, 258; see also *David L. v. Superior Court* (2018) 29 Cal.5th 359, 374, fn. 8 [after *Bristol-Myers*, jurisdiction exists when injuries either arise out of or relate to forum activities].) When there is no such connection, specific jurisdiction is lacking regardless of the extent of a defendant's unconnected activities in the State. (*Bristol-Myers*, *supra*, 582 U.S. at p. 264.) In other words, specific jurisdiction depends on "the quality and nature of the defendant's forum contacts in relation to the particular cause of action alleged." (*Anglo Irish Bank Corp. supra,* 165 Cal.App.4th at p. 978.) "The United States Supreme Court's intervention in *Bristol-Myers* suggests that the forum-relatedness requirement may be supplied only by those contacts with the forum that relate to the specific claims at issue. Although *Bristol-Myers* 'did not address the *strength* of a causal link required' (*David L., supra*, 29 Cal.App.5th at

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[2] Contrary to defendant's claim in its motion at page 18 of motion, the only portion of *Vons* that was "partially overruled" was the "sliding scale" test. As noted recently by one Court of Appeal: "California had for many years employed a sliding scale approach that relaxed the need to show a link between the cause of action and the out-of-state defendant's contacts with the forum when the defendant had "more wide ranging . . . contacts" with the forum (*Vons*, at p. 455[]), but the United States Supreme Court rejected that approach in *Bristol-Myers*, *supra*, 137 S.Ct. at p. 1781." (*Jacqueline B., supra,* 68 Cal.App.5th at p. 259, fn. 1.)

p. 374, fn. 8, 240 Cal.Rptr.3d 462), we proceed, for the sake of prudence, under the assumption that a 'substantial connection' between the claim and the forum contacts satisfies forum-relatedness only when consistent with a finding that the claim " 'arise[s] out of or relate[s] to' " (*Burger King, supra*, 471 U.S. at p. 472, 105 S.Ct. 2174) the forum-related activities." (*Rivelli v. Hemm* (2021) 67 Cal.App.5th 380, 400.) This court will do the same here.

C) Judicial Notice/Supplemental Requests for Judicial Notice

Both parties ask the court to take judicial notice of certain documents. Defendant asks the court to take judicial notice of Exhibits A1 to H. Plaintiff does not oppose the motion, and thus, it will be granted. The court nevertheless comments on Exhibit G of defendant's judicial notice request, which consists of a minute order, as well as December 23, 2023 tentative/final order, issued by a Los Angeles County Superior Court Judge Traber in *John Doe #1 v. Boys & Girls Club of America,* in which the trial court granted defendant's motion to quash. Defendant makes no real effort to argue that the unpublished trial court order and decision has any res judicata, collateral estoppel, or law-of-the case effect on this appeal, in light of California Rules of Court, rule 8.1115(b). Defendant in fact has violated this rule when it expressly cites to Exhibit G (see p. 7 of Reply). This court (while granting the unopposed request for judicial notice) will comply fully the dictates of Rules of Court, rule 8.1115(a)) when examining the briefing, even if defendant has not. (See, e.g., *Rittiman v. Public Utilities Com*. (2022) 80 Cal.App.5th 1018, 1043, fn. 18 [citations to unpublished trial court orders is patently improper pursuant to Cal. Rules of Court, rule 8.1115].))

Plaintiff in opposition asks the court take judicial notice of Exhibits A and B, which are the first amended complaint and the summons and proof of service showing service on defendant, respectively. The motion is unopposed, and therefore, will be granted. This will still remain so even though the 2009 Governing Documents are not relevant or dispositive. The 2009 Governing Documents will be part of the trial court record for all future purposes.

On February 28,2024, defendant filed a supplemental request for judicial notice as to Exhibit I, consisting of a copy of a published February 28, 2024 opinion from the Superior Court of New Jersey, Appellate Division, in *E.T. v. The Boys and Girls Club of Hudson County, et al.* (A-3720-22, filed. Feb. 28, 2024) ____ A.3d ____ [2024 WL 818761]. "Published decisions of other states are citable authority *without the need for judicial notice*." (*Randy's Trucking, Inc. v. Superior Court of Kern County* (2023) 91 Cal.App.5th 818, 842, fn. 15, italics added.) The request is denied as unnecessary.

Finally, on March 29, 2024, in conjunction with its supplemental briefing, defendant filed another request for judicial notice, this time consisting of Exhibit K, which is the "Articles of Incorporation of California Alliance of Boys & Girls Clubs, Inc.," filed with the California Secretary of State on August 29, 2000. The court is troubled by this late request; the additional briefing authorized by the court at the last hearing was limited to a discussion of whether the error associated with the 2009 Governing Documents was fatal or not; the court did not offer

defendant an opportunity to expand the evidentiary record beyond that inquiry. In any event, it is proper for the court to take judicial notice of the fact these articles of incorporation were filed; it is nevertheless improper for the court to take judicial notice of the truth of the statements contained in those documents. (See, e.g., *Friends of Shingle Springs Interchange, Inc. v. County of El Dorado* (2011) 200 Cal.App.4th 1470, 1484, fn. 12 [court may take judicial of the *existence* of the original articles of incorporation]; see also *Jones v. Goodman* (2020) 57 Cal.App.5th 521, 528, fn. 6 [same].) As the request is unopposed, and within these parameters, the request is granted.

D) Defendant's Evidentiary Objections

Defendant objects to Exhibits E and F of plaintiff's evidentiary proffer, on the grounds that both exhibits are irrelevant and unauthenticated, and further, Exhibit F also contains impermissible hearsay. Exhibit E is a single-page copy of the contents of the "United Boys & Girls Clubs of Santa Barbara County" website, while Exhibit F is a single page copy of website information from "Boys & Girls Club California Alliance." Both Exhibits are attached to the declaration of attorney Rhys Kennedy, who declares that if called to testify, he could "competently testify to the facts set forth in this Declaration based upon my personal knowledge."

The court overrules defendant's objects to Exhibit E and F based on authenticity. The court finds Mr. Kennedy's declaration, along with Evidence Code section 1421, to be dispositive. True, as defendant observes, Mr. Kennedy did not expressly indicate that he personally downloaded the website information, although that can be reasonably inferred. Most significantly, a writing may be authenticated by the fact that it describes matters that are "unlikely to [have been] known to anyone other than the person who is claimed by the proponent of the evidence to be the author of the writing" (Evid. Code, § 1421) or under circumstances where it is "unlikely anyone other than [the named entity] authored the notes." (*People v. Lynn* (1984) 159 Cal.App.3d 715, 735; *People v. Valdez* (2011) 210 Cal.App.4th 1429, 1436 [contents of the document may authenticate it].) Here, both Exhibits contain specialized particulars that are sufficient to determine authenticity, containing photographs, communications, and historical information that reveal only the author of the website would know.

As for defendant's hearsay objection to Exhibit F, defendant argues the entirety of the website page is being offered for its substantive truth, and therefore is inadmissible. Defendant points to no particular statement in the exhibit as inadmissible, but to all, meaning that if one part of the website is actually nonhearsay, the entirety of the page is admissible. It is true, as defendant contends, that Boys & Girls Club California Alliance (the author of the material) itself is not a direct party. But the court disagrees that all of the statements contained in Exhibit F are offered for the truth of the matter stated. For example, Exhibit F contains the following statement about services offered: "Critical Services Currently Offered: All-Day Programs for the Children of [Members]"; "Support for School District Partners"; and "Online []

Counseling." This arguably is not being offered for the truth of those statements, but for their impact they may have on readers of the website (and notably, California residents who look at the website). (See, e.g., *Holland v. Union Pacific Railroad Co.* (2007) 154 Cal.App.4th 940, 947 [an out of court statement is not hearsay if offered to show the effect on the hearer, reader, or viewer rather than to prove the truth of the content of the statement].) For this reason, given the wholesale nature of defendant's argument, the court overrules the hearsay objection.

The last objection from defendant – based on irrelevance – requires a more detailed exegesis. Defendant's argument is simply stated – the relevant period during which minimum contacts must exist is when the cause of action arose, not when the complaint was filed, meaning the only relevant documents must be from 1984, and plaintiff has not shown these web pages meet this requirement. Defendant cites the following passage from a seminal treatise in support: "The relevant period during which "minimum contacts" must have existed is when the *cause of action arose* rather than when the complaint was filed or served." (Weil & Brown, Cal. Civ. Proc. Before Trial (The Rutter Group 2023), Jurisdiction Over Parties—Personal Jurisdiction, ¶ 3:205.1, citing *Boaz v. Boyle & Co.* (1995) 40 Cal.App.4th 700, 717,[3] and *Cadle Coo. II, Inc. v. Fiscus* (2008) 163 Cal.App.4th 1232, 1239 [court viewed defendant's jurisdictional contacts at the time of the original entry of the original judgment to be the relevant contacts, not the contacts at the time of the renewal action].)[4]

The court acknowledges the fundamental premise of defendant's argument -- minimum contacts must have existed when the cause of action arose -- but concludes defendant's argument goes too far. The authority cited by defendant does not rule out the common-sense reality that later existing evidence (i.e., from more recent days, such as that evidenced by the web pages contained in Exhibits E and F) may be relevant (based on reasonable inferences and appropriate extrapolations) to show an earlier relationship, past direction, and on-going contact between defendant and California (keeping in mind that the relevant inquiry is predicated on the time the cause of action arose, even if the evidence is not directly generated from that point in time). Indeed, the evidence contained in Exhibits E and F did not magically appear -- it must by logic

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[3] In *Boaz, supra,* 40 Cal.App.4th at page 704, plaintiffs sued for injuries they incurred from their grandmothers' ingestion of the drug diethylstilbestrol while pregnant with plaintiffs' mothers. One of the defendants moved to quash the return of service for lack of personal jurisdiction. When analyzing minimum contacts, the court stated, "We shall assume that the relevant period is when [the defendant's] predecessors were distributing [the drug], some 25 years ago, rather than just before [the defendant] was served." (*Id.* at p. 717.)

[4] In *Cadle, supra,* 163 Cal.App.4th at pages 1234–1235, the appellate court reversed the trial court's order granting a motion to quash service of summons in the plaintiff's action to revive a 14-year-old money judgment against the defendant. The judgment came from an earlier action where defendant answered the complaint, and plaintiff won on summary judgment. (*Id.* at p. 1235.) The trial court concluded that even though the defendant had not purposefully availed himself of the benefits of California since the original litigation, there were sufficient minimum contacts to exercise personal jurisdiction in a revival action by virtue of the original judgment. (*Id.* at p. 1240.

and experience come from years of interaction. Defendant's challenges ultimately go to weight, not admissibility. For this reason, the court overrules defendant's objection based on relevance.

E) Merits

The court is troubled by plaintiff's errors in submitting and its reliance upon the 2009 Governing Documents, when the relevant documents were from 1978 (the 1978 Governing Documents). Defendant, for its part, is not free from fault, as it could have raised the issue in reply (and not just before the hearing, *sui generis*). Nevertheless, given the conceded errors and new submissions, and their clear impact on the resolution of the merits, the court has reevaluated its original conclusion with these new submissions in mind.

It is clear (as was true with regard to the original tentative) that general jurisdiction is not offered as a basis for personal jurisdiction, and thus will (again) not be addressed. The focus as before will be on the rules associated with specific jurisdiction.

In its original tentative, the court agreed with defendant that the 2009 Governing Documents ***by themselves*** did not show that defendant purposefully availed itself of the benefits of a California forum. That is, these documents alone did not demonstrate that defendant intentionally and voluntarily directed any activities toward California so they should have expected, by the benefit it receives, to be subject to a California court's jurisdiction. The same seems true for the 1978 Governing Documents. The question nevertheless remains essentially the same as with 2009 Governing Documents – do the 1978 Governing Documents, in conjunction with other evidence in the record, establish minimum contacts commensurate with due process and California's longarm statute? (See, e.g., *Snowney v. Harrah's Entertainment, Inc.* (2005) 35 Cal.4th 1054, 1065 [even assuming that a particular piece of evidence alone, by itself, is not sufficient to establish purposeful availment, this evidence in conjunction with other contacts undoubtedly does].)

The court originally identified three exhibits that in its view demonstrated defendant's actions were directed toward California and California residents. Two of these three exhibits still provide an adequate evidentiary basis to show defendant's efforts were directed at California – even if the relevant time frame is 1984. Exhibit F from plaintiff's evidentiary proffer, which consists of a copy from the Boys & Girls Clubs of California website, indicates there are 115 Boys & Girls Clubs in California, with more than 664,000 kids at 500 plus sites. This evidence seems undisputed. While no doubt these numbers were not the same in 1984, one can reasonably infer that the contacts with California were nevertheless substantial. This point is bolstered by Exhibit D of defendant's evidentiary proffer is from the website of the other defendant in this matter – the Boys & Girls Club of Santa Barbara County, as follows: ". . . Boys & Girls Clubs of Santa Barbara County (UBGC) is a non-profit youth development agency and serves ages 5-18 years old, with 10 locations across Santa Barbara County. ***USBG is a member of the national organization, Boys & Girls Club of America*** . . . ." (Emphasis added.) As was true with the original tentative, common sense, if nothing else, suggests that for a local chapter to be a

member of the national organization, defendant would have to agree with the membership rules, meaning the local chapter must comply with all governing requirements outlined above and contained in the record. All of this is underscored by the seemingly uncontested fact that the first Boys & Girls Club in Santa Barbara County was created in 1947, with additional club sites built thereafter in Goleta, Carpinteria, Lompoc, Buellton and Solvang.[5]

The remaining (and most significant) issue is whether the 1978 Governing Documents (attached via stipulation, removing the 2009 Governance Documents from the calculus), even when accompanied by other evidence, establish that (1) defendant purposefully availed itself of the benefits of California; (2) the controversy arises out of or is related to the defendant's forum contacts; and (3) the exercise of jurisdiction would be fair and reasonable. As for purposeful availment, mere ownership (or affiliation as is evident in this case) is insufficient to satisfy this requirement. A parent company (here defendant) must have some form of operational control over the performance of the subsidiary *beyond the establishment of general policy and direction*. (*Sonora, supra,* 83 Cal.App.5th at p. 542 [the "parent must be have moved beyond the establishment of general policy and direction for the subsidiary and in effect taken over the performance of the subsidiary's day to day operations in carrying out that policy"], emphasis added.) General oversight of a subsidiaries' finances shows "normal involvement by a parent corporation with its subsidiary." (*Id,* at p. 551.) The second prong requires a showing that the current controversy is "related to are arise[s] out of the defendant's contacts with the state" – meaning a substantial nexus or connection between the defendant's forum activities and the plaintiff's claim.

The contents of the 2009 Governing Documents, as contained in Exhibit A, which detailed defendant's "Requirements for Membership[,]' were crucial to the court's initial tentative. These requirements included Article II, detailing "Operating Standards for Membership Organizations[.]" Each member (including codefendant Boys & Girls Clubs of Santa Barbara County Lompoc Unit) at least as of 2009 was required to perform on an ongoing basis the following tasks: 1) conduct a financial audit annually; 2) keep satisfactory records; 3) pay to defendant annual membership dues; 4) make certain benefits available to all full time employees, and to pay at least 50 percent of the cost of such benefits, maintain a salary structure, and review, at least annually, its employment policies and procedures ; 5) maintain liability insurance of at least $1 million, which must include the name Boys & Girls Club of America as

[5] The court, upon further reconsideration and in light of the post-hearing stipulations, determines that its reliance on the third exhibit – defendant's Exhibit H (erroneously labelled Exhibit E) -- was overstated. Exhibit H contains evidence that defendant has an interactive website that directs website users to contact their "local club" with inquires "regarding membership, programs and services, hours, fees, volunteer opportunities, or Club-specific concerns." Clearly, the interactive website did not exist in 1984, and, more to the point, has little relevance determining whether defendant directed efforts at California at that time. Exhibit H as a result played no material role in the court's updated determination.

an additional insured and file a certificate of insurance with Boys & Girls Club of America annually; 6) conduct an organizational assessment of the organization, "in consultation with [defendant]; 7) "***conduct criminal background checks of all employees and volunteers who have repetitive direct contact with children. Such checks should be of the type that would disclose, at minimum, sexual offenders and include a social security number trace and national criminal file check. Such checks should be conducted prior to employment and at regular intervals, not to exceed twenty-four (24) months***" (bold and italics added); and 8) establish a "Code of Ethics." Additionally, the court noted (based on the 2009 Governing Documents) that defendant was a named beneficiary on a liability policy.

All of this suggested to the court, again based on the 2009 Governing Documents, that defendant directed specific employment actions that impacted the Santa Barbara County local chapter at issue, including the institution of a Code of Ethics, and, most significantly, the requirement that a member must engage in criminal background checks on employees and volunteers who worked with minor children, at least every 24 month; defendant clearly emphasized the need for a substantial background check to reveal sexual offenders, as well as a national criminal file check, and directed that it must be done prior to employment and at regular intervals during either employment or as a volunteer. Indeed, this latter requirement likely framed the nature of the liability insurance requirement – defendant's continuing presence ensured a specific, baseline quality for supervising children, without which liability followed. Also crucial to the court's conclusion was its observation (again made in its original tentative) that there was no indication these directives were inoperative or otherwise inapplicable at the time the alleged abuse occurred, citing to *Cadle Co. II v. Fiscus, supra,* 163 Cal.App.4th at page 1239.

Plaintiff's belated concession that the1978 Governing Documents are the appropriate governing documents, not the 2009 Governing Documents, amounts to a significant turn of events. The "Requirements for Membership" (starting on page 10 of Exhibit 2 of the new stipulation exhibit as part of the 1978 Governing Documents) are a far cry from the more detailed and specific enunciations in its 2009 progeny. The 1978 Constitution indicates that defendant has limited involvement, framed by general oversight and more attenuated governance input. For example, Section (4)(B) of the "Requirements for Membership" indicates that the "local governing body shall have control of the Boys' Club buildings or designated Boys' Club rooms, shall have control of the expenditures of the Boys' Club within an established budget, shall have authority to determine policies and establish programs, shall have authority to appoint the executive and fix his compensation, prescribe his duties and the terms of his employment; shall have authority to fix the compensation of other employees; and shall have the authority, or delegate the authority to the executive, to hire and discharge employees and prescribe their duties."

The stipulated documents also indicate that to be a member, an organization must generically 1) "maintain satisfactory financial records, adequate safeguarding or funds, and shall cause an audit of its financial accounts to be made annually by a qualified public accountant and a copy sent to Boys Club of America"; 2) "have sufficient full-time, part-time and volunteer workers who are qualified in personality, character, experience, education and training for the leadership and guidance of boys, and each for the supervision of one or more activities of the Boys' Club"; 3) have at least some "governing body of responsible citizens"; 4) have at least 100 boy members; 5) be open ten months out of the year, five days per week, four hours per day; 6) maintain a "satisfactory program of varied and diversified activities," without sectarian and political belief; 5) conduct a "self-evaluation" every third year; ; 7) maintain a satisfactory state of cleanliness and sanitation, shall comply with state laws and local ordinances for protection and safety; [and] shall be adequately heated and lighted"; 8) offer to full time employees health coverage, medial insurance, life insurance, a retirement program, and a salary continuance plan (with salary being competitive); and 9) pay membership dues. It is noteworthy that no criminal background checks were mandated (or even contemplated)[6]; no specific ethical standards were imposed; and no liability insurance policy was required. These omissions in the court's view are fatal.

Plaintiff attempts to put a good face on the significance the 1978 Governing Documents, arguing they still support the court's original conclusion because the directives go beyond general policy and reflect a substantial connection (nexus) with the lawsuit. The court is not persuaded. The 1978 Governing Documents are not similarly situated to the 2009 Governing Documents in force or scope. The former offers nothing more than generic directives involving general policies that cannot establish purposeful availment, and there is nothing in the 1978 Governing Documents that establishes a substantial nexus between the generic activities at issue and the specific nature of abuse at issue in with the lawsuit. Nothing in the 1978 Governing Documents (again, the only evidence relied upon by plaintiff) suggests anything more than defendant's normal, general executive control over a subsidiary or affiliate. None of the above-listed requirements suggests anything more than a traditional parent-subsidiary relationship, or anything beyond what would normally be expected of parent company's oversight of a subsidiary. (*Sonora, supra,* 83 Cal.App.4th at p. 551 [overseeing a subsidiaries finances shown nothing more than normal involvement by a parent corporation with its subsidiary].) For specific jurisdiction, the relationship between parent and subsidiary contemplates a close financial connection and a certain degree of direction and management exercised by the former over the

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[6] Plaintiff in his supplemental briefing indicates that employee background checks were "not a common practice until the 1990s." Plaintiff nevertheless insists that the "absence of background-check requirements in the 1978 documents does not indicate any lesser connections with California . . . ." The court is not persuaded. At a minimum the absence of this evidence suggests an inadequate nexus between any assumed purposeful availment and the gravamen of the lawsuit, particularly when coupled with the remaining generalities of the 1978 Governing Documents.

latter, tailored to the subject of the lawsuit at hand. (*Id*. at p. 541.) Nothing in the 1978 Governance Documents establishes these necessary conditions.

California appellate decisions provide useful guidance in determining the type of oversight or connection required between similarly situated entities as here for purposes of specific jurisdiction. (See, e.g., *Anglo Irish Corp. v. PLC v. Superior Court* (2008) 165 Cal.App.4th 969, 978 ["specific jurisdiction depends on the quality and nature of the defendant's forum contacts in relation to the particular cause of action alleged].) "It is not enough for [plaintiff] to show that [defendant parent] has general involvement" in the subsidiary's actions; rather it must be shown that the parent's activities related specifically to the cause of action alleged in the operative pleading. (*BBA Aviation PLC v. Superior Court* (2010) 190 Cal.App.421, 436.) In *Sammons Enterprises, Inc. v. Superior Court* (1988) 205 Cal.App.3d 1427, for example, a former hotel employee sued his hotel employer and its foreign parent corporation, Sammons, for wrongful termination. The parent moved to quash service of summons for lack of personal jurisdiction. In support of his assertion of specific jurisdiction, plaintiff presented evidence that he received Sammons stock options, was covered by Sammons' Employee Retirement Plan and was once given a small bonus by Sammons. (*Id.* at p. 1430-1431.) The appellate court found no basis for specific jurisdiction because plaintiff made no showing that "anyone from Sammons was responsible for or even reviewed or approved the decision to terminate him." (*Id.* at p. 1435.) The court noted that plaintiff's "wrongful termination claim did not arise out of his stock option or retirement plan" and the bonus check "certainly bears no relationship to his termination." (*Ibid.*) Here, there is no evidence that defendant had anything but the most general involvement in the alleged abuser's employment or oversight. (See also *BBA Aviation, supra*, at p. 436.) The underlying controversy (the sexual abuse) did not arise from any substantial contact with defendant's specific forum contacts in 1984.[7]

This case seems similar to *HealthMarkets Inc., supra*, 171 Cal.App.4th 1160, in which the trial court denied a motion to quash service of summons on a nonresident holding company, concluding the subsidiary's contacts with the California should be attributed to the parent holding company for purposes of specific jurisdiction. Plaintiff alleged a fraudulent health insurance sales scheme perpetrated by defendants, after he purchased an insurance policy from of subsidiary of HealthMarkets. The trial court acknowledged that HealthMarkets had no contacts with California and had "was not involved in the insurance transaction that is the subject of the complaint." (*Id*. at p. 1165.) The trial court nevertheless found specific jurisdiction, as California has a strong interest in providing residents with effective redress against insurers.

The appellate court reversed. It emphasized mere ownership of a subsidiary is not enough – plaintiff as the opposing party to the motion to quash had to present evidence that

[7] That may not necessarily be true based on the 2009 Governing Documents, as reflected in the court's original tentative order. The new documents present a "horse of a different color."

defendant in some manner deliberately directed the subsidiary's activities in, or had a substantial connection with, the forum state. That is, defendant must "purposefully direct those activities" toward the forum state. According to the appellate court, there was no evidence to show HealthMarkets controlled its subsidiaries in connection with the insurance transaction that was the subject of the complaint. (*Id*. at p. 1173, fn. 4.) The same is true here, as there is no evidence that defendant (as evidenced by the 1978 Governance Documents) in any way meaningfully controlled the local chapter in connection with the hiring or supervision of the employee/volunteer who abused plaintiff.

By contrast, in *Empire Steel Corp. v. Superior Court of Los Angeles County* (1961) 56 Cal.2d 823, and *Anglo Irish Bank Corp., supra,* 165 Cal.App.4th 969, the courts imputed contacts to a nonresident corporation because the corporation purposefully caused or directed the forum related activities. In *Empire*, a foreign corporation could be subject to specific jurisdiction in California where the claims asserted arouse out of the parent's manipulation of the subsidiary. (*Id*. at p. 832.) Specifically, the parent "knowingly caused its California subsidiary to make the contracts in suit" and therefore "engaged in activities creating substantial contacts within California in relation to the claim asserted." (*Ibid.*) In *Anglo Irish Bank Corp,* the court found the parent company purposefully availed itself of California benefits because all parties "worked closely together in connection" with the leveraged investments at issue in the lawsuit, as the foreign defendant reviewed and approved credit applications; representatives visited California for purposes of investments at issue; and the business cards utilized showed a close relationship among the entities. "The evidence supports the conclusion that in doing [all of this], the individuals acted not only on behalf [of the local entities] but also on behalf of the Irish bank." (*Id.* at p. 894 [the lawsuit is based on claims made by representatives of the foreign entity, and thus are substantially related].) The showing present in those two cases is lacking here.

This case also stands in contrast to *Milwaukee v. Superior Court* (2003) 112 Cal.App.4th 423, in which the appellate court concluded that there was purposeful availment because the evidence showed that the Milwaukee Archdiocese "intentionally sent [the sexual abuser] to California to get him out of Wisconsin where he had been convicted of sexual perversion against a boy and could create further problems for the Milwaukee Archdiocese." (*Id.* at p. 438.) Once the abuser was in California, "the Milwaukee Archdiocese never recalled him, although it had the power to do but never questioned him, never monitored his treatment, and never conducted an investigation to determine whether he continued to molest boys. The Milwaukee Archdiocese allowed [the abuser] to be excardinated so he could incardinated in the Orange Diocese . . . ." "The Milwaukee Archdiocese's conduct was intentional and was expressly aimed at California. The Milwaukee Archdiocese [] knew its intentional conduct would cause harm in California." (*Id*. at p. 439.) This showed purposeful availment. Further, the plaintiff's claims "bear a substantial connection to the Milwaukee Archdiocese's forum contacts." The victim's claims "for sexual abuse arise out of the same kind of conduct that prompted Milwaukee Archdiocese to

send [the abuser] to California." (*Id*. at p. 442.) The absence of anything remotely similar here indicates a contrary result is appropriate.

Finally (but not insignificantly), the court finds strong parallels between this case and *E.T. v. The Boys and Girls Club of Hudson County, et al*. (A-3720-22, filed. Feb. 28, 2024) ____ A.3d ____ [2024 WL 818761] (hereafter, *Boys and Girls Club*). The *Boys and Girls Club* appellate court was presented with the same or similar issues as presented here – whether the forum court had specific jurisdiction over the national organization Boys and Girls Club of America following a sexual abuse lawsuit by a counselor employed at a local chapter. The plaintiffs' abuse occurred between 1978 and 1982, when they were members of the club, a similar timeframe as here. The trial court found there was specific jurisdiction to sue the national chapter.

The appellate court reversed. It concluded that the Boys and Girls Club of America "had no influence or control over the New Jersey entity's hiring, training, or supervision of the alleged sexual abuser," and thus could not purposefully avail itself of the benefits of New Jersey forum regarding the sexual abuser. "Jurisdictional discovery revealed the national organization had no influence or control over the New Jersey's hiring, training, or supervision of the alleged sexual abuser. We thus conclude the national organization did not purposefully avail itself of benefits in or from New Jersey regarding the alleged sexual abuser, and hence, our state has not specific personal jurisdiction over the national organization this matter." (*Id*. at p. 1.)

Of particular relevance for our purposes are the following points made by the appellate court. It observed that the Boys and Girls Club "involvement with its member organization is limited," relying in part on the same language of the 1978 Constitution as quoted above. Further, as here, the plaintiff presented no evidence that defendant "maintained control over the hiring, training, supervising, or termination of any [local chapter employee]." And as here, there was "no evidence that [defendant] monitored or directed [the local chapter's staff]." "During the time of [the abuser's] alleged sexual assaults, [the local chapter] was a New Jersey nonprofit and dues-paying local governing body member of [the defendant]. Plaintiffs were members [of the local chapter]. There is nothing in the record indicating that [defendant] had any input in [local chapter's] hiring practices or gave direction to [the local chapter] regarding training or supervision of the local governing body's employees. " *(Id*. at p. 3.) The same is true here.[8]

[8] This last statement seems true even though the attestations in the 1978 Governing Documents (which must have been present before the court in *Boys and Girls Club*) indicated that each member must have workers "qualified in personality, character, experience, education, and training . . . ." These guidelines are so generic as to constitute nothing more than "normal involvement by a parent corporation with its subsidiary and therefore insufficient alone" to establish specific jurisdiction. More significantly, they stand in stark contrast to the specific requirements enunciated in the 2009 Governing Documents, which required members (at defendant's express directive) to conduct routine and regular criminal background checks of employees, an action substantially related to the gravamen of plaintiff's lawsuit. This change is directly related to the impact of the 1978 Governing Documents as dispositive. .

And (so noted by *Boys and Girl Club* court) while the local chapter's executive director must be "acceptable" to defendant, "the record does not show [defendant] compelled, or could compel, the executive director or other local club staff to undergo any mandated training for their roles or the supervision of staff. . . ." Again, the same is true here. "Significantly [opined the *Boys and Girls Club* court], there is no indication that [defendant] had any knowledge about [the abuser's] abusive propensities or should have known them based upon involvement with [the local chapter." (*Id*. at pp. 3-4.) Defendant's support "must relate to the [the abuser's] alleged sexual abuse for it to avail itself of New Jersey courts," and there was no evidence of that. The same is true here.[9]

Finally, the appellate court in *Boys and Girls Club* observed that plaintiffs' sexual abuse case was unlike cases involving sexual abuse by priests sent from the Diocese of Richmond (Virginia) to New Jersey, where New Jersey courts found there was sufficient evidence of specific personal jurisdiction. (See *JA/GG Doe 70 v. Diocese of Metuchen* (App. Div. 2023) 477 N,J.Super 270, 283-285.) "In contrast with the Diocese of Richmond's involvement with the sexual abuser in Metuchen, [defendant] had no such connection with [the abuser's] employment at [the local chapter]. The record does not indicate [defendant] hired, trained, supervised, or had the authority to discipline or terminate [the abuser's] employment." (*Id.* at p. 5.) This court made a similar observation with regard to *Archdiocese of Milwaukee v. Superior Court*, a California published opinion, discussed *ante*.[10]

The concluding observations made by the *Boys and Girls Club* court seem particularly apt: "Our Legislature has recognized the compelling need for sexual abuse victims to seek relief in our court to address the insidious effects of their ordeal. . . . Nevertheless, we must be mindful that there are due process restrictions to extend our court's jurisdiction over individuals and entities that are allegedly liable for sexual abuse." (*Id.* at p. 5.) Again, the same is true here. Plaintiff here originally relied on the 2009 Governing Documents to show purposeful availment and substantial nexus; this was an admitted error, and after review of the 1978 Governing documents, which the parties' concede properly frame the issue, they are insufficient to support a finding of specific personal jurisdictions over defendant. As there is no request for any further jurisdictional discovery, the court grants defendant's motion to quash the summons.

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[9] Plaintiff's arguments advanced in his supplemental brief are similar in scope to the arguments advanced by plaintiffs in *Boys and Girls Club*. For example, plaintiffs in *Boys and Girls Club* claimed specific jurisdiction existed because the local chapter used defendant's brand, accessed defendant's programmatic and financial guidance. (*Id.* at p. 4.) Here, plaintiff claims members had to maintain satisfactory financial records, safeguard funds, and conduct an annual accounting. Plaintiff's arguments fail for the same reasons identified by the court in *Boys and Girls* – defendant's support must relate to the abuser's "alleged sexual abuse for [plaintiff] to avail itself of New Jersey courts"; no facts have been offered here in support of that proposition. (*Id.* at p. 5.)

[10] In light of these conclusions, the court finds it unnecessary to address the import of *Aldrich v. National Collegiate Athletic Association* (2020 N.D. Cal.) 484 F.Supp.3d 779 and *Doe 1 v. National Collegiate Athletic Association* (N.D. Cal., Jan. 4, 2023, No. 22-CV-01559-LB) 2023 WL 105096, which defendant insists in its supplemental briefing are analogous to the present case.

F) Summary

- The court grants both parties' initial requests for judicial notice; the court denies defendant's February 29, 2024 request for judicial notice as unnecessary, and partially grants and partially denies defendant's March 29, 2024 request for judicial notice (i.e., the court will take judicial notice of the existence of the Articles of Incorporation, but not the truth of the statements contained therein).
- The court overrules all evidentiary objections advanced by defendant.
- At no point have the parties argued general jurisdiction; the issue as framed from the outset is whether this court has specific jurisdiction over defendant.
- The court's initial tentative was predicated on the import of the 2009 Governing Documents. Following plaintiff's belated concession/stipulation that the appropriate documents were not the 2009 Governing Documents but the 1978 Governing Documents, the court's analysis has changed. Unlike the 2009 Governing Documents, the 1978 Governing Documents (the only evidence relied upon by plaintiff for this immediate purpose) do not support a finding of purposeful availment and substantial nexus necessary to establish specific jurisdiction over defendant, contrary to arguments advanced in plaintiff's supplemental briefing, for the reasons outlined above. In light of this, there is no need for the court to determine whether it would be unfair to allow enforcement in this jurisdiction.
- The court therefore grant's defendant's motion to quash.
- Defendant is directed to provide a proposed order for this court's signature.