

PARTIES/ATTORNEYS

Plaintiff	Guadalupe Reyes Gallardo	Monica Robles
Defendant	Charlotte Cassie Caro	Brian Dewey

PROPOSED TENTATIVE

On May 7, 2025, plaintiff Guadalupe Reyes Gallardo (plaintiff) filed an unlimited complaint on standard Judicial Council forms against defendant Charlotte Cass, raising motor vehicle negligence and general negligence. Plaintiff alleges that on October 29, 2023, at an intersection in Lompoc, defendant (who was operating the vehicle) negligently crashed her vehicle into a vehicle driven by plaintiff, injuring the latter. Defendant answered on June 27, 2025.

On October 14, 2025, plaintiff filed seven (7) motions to quash, as follows: 1) three (3) deposition subpoenas issued by defendant against Pueblo Radiology Medical Group/Medical, Pueblo Radiology Medical Group/Business Office, and Pueblo Radiology Medical Group. Radiology Department; 2) a deposition subpoena issued by defendant against Advanced Chiropractic Group; 3) a deposition subpoena issued by defendant against Carrillo Surgery Center; 4) a deposition subpoena issued by defendant against HBMS; 5) a deposition subpoena issued by defendant against Santa Barbara Public Health Care Center; 6) a deposition subpoena against Summit Orthopedic Specialists; and 7) a deposition subpoena issued by defendant against the Spine and Orthopedic Centers/Medical and The Spine and Orthopedic Center/Radiology. ***Each*** subpoena above asks for the ***same medical records*** involving plaintiff, as follows:

“The records to be produced are described as follows: [¶] Records (including digital information), that examine, affect, address or involved in any way Limited to head, neck, back, shoulders, arms, legs, hips, knees and 10/29/2008 through the present regarding [plaintiff], to include but not limited to examinations, medical/history, diagnosis, treatment, testing, radiology, prognosis, prescriptions, and billing (including, but not limited to payments, adjustments, reimbursements, and explanations of benefit.) Exclude: health information that may be related [sic] to reproductive health care. Please obtain a breakdown and all x-ray films and/or MRI/films taken”

As to each subpoena, defendant sent a Notice to Consumer or Employee and Objection form on standard Judicial Council form, pursuant to Code of Civil Procedure section 1985.3 (including personal records).

Each motion to quash raises the exact same argument, in the exact same way, jot-for-jot. Plaintiff claims 1) defendant has not complied with Code of Civil Procedure section

2020.410(a), as the requests go beyond what is permissible discovery, as it asks for records that go back to 2008 and include “numerous body parts and conditions not at issue in this litigation, such as hips and legs”; 2) the requests are overbroad; and 3) the requests violate defendant’s right of privacy under the state Constitution, pursuant to *Britt v. Superior Court* (1978) 20 Cal.3d a 844 and *Davis v. Superior Court* (1992) 7 Cal.App.4th 1008. Each motion contains the following claim: “[Plaintiff] objects to producing seventeen years of medical records and any information involving unrelated body parts or conditions, especially given that Defendants have not made any effort to narrow the subpoenas”

Defendant has filed seven separate oppositions (each duplicative of each other). Defendant contends that plaintiff “has claimed broad injuries to her left knee, her neck, right upper/mid-back, her right shoulder and radiating pain down her right arm,” and medical records are relevant to this lawsuit. Defendant claims it is entitled to records in which “plaintiff discussed the alleged incident, any previous accidents and their alleged injuries from each of these accidents with these medical providers.” According to defendant, plaintiff “has tendered her physical state as discoverable components of her claim for injuries and damages in this lawsuit,” and thus medical records, billing records, are relevant to this matter. Defendant suggests that the court could examine the records in camera if plaintiff so requests, relying on *Slagle v. Superior Court* (1989) 211 Cal.App.1309, 1315. Defendant also asks the court to deny the motions because plaintiff has failed to include a separate statement per California Rules of Court, rule 3.1345(a)(5).

Plaintiff has filed seven (7) replies (also equally duplicative). All briefing has been examined.

The court rejects defendant’s claim that it should deny the motion because plaintiff failed to meet and confer. While Code of Civil Procedure section 1987.1 requires that a motion to quash a subpoena be reasonably made -- the provision plaintiff relied upon to advance the motion to quash (along with Code of Civil Procedure section 1985.3(g)), nothing in the statute requires a party seeking to quash a subpoena to make reasonable or good faith efforts to meet and confer.

Defendant is correct ***at first blush*** that a separate statement is required for a motion to quash the production of documents. California Rules of Court, rule 3.1345(a)(5) provides that “motions that require a separate statement include a motion . . . to compel or to quash the production of documents or tangible things at a deposition.” Overlooked by defendant, however, is the qualification to this, contained in California Rule of Court, rule 3.1345(b)(1), which provides that no separate statement is required when “no response has been provided to the request for discovery.” Here, plaintiff did not make any response to the deposition subpoena – plaintiff just filed a motion to quash. It follows that no separate statement was required.

The court also rejects defendant’s request for an in-camera review. The court can resolve the issues without the need to examine any specific documents. Defendant’s reliance on *Slagle* is misplaced. There, the court observed that that if the person who holds the privilege “fears that the medical records ordered produced will reveal information not relevant to the condition of his eyesight at the time of the accident, he may request an in-camera inspection of the records to segregate the irrelevant information.” (*Slagle, supra*, 211 Cal.App.3d at p. 1315.) Plaintiff is not concerned that the disclosure of appropriate medical records will reveal irrelevant information; in-camera review is unnecessary when a more specially tailored notice will suffice.

On the merits, the court looks to the standards enunciated in *Williams v. Superior Court* (2017) 3 Cal.5th 551 and *Davis v. Superior Court, supra*, 7 Cal.App.4th 1008 to resolve the issues presented. No doubt the state right of privacy under the State Constitution, pursuant to article I section I, protects the medical records at issue here. (*Davis, supra*, at p. 1014.) So does Code of Civil Procedure section 1985.3, which protects a consumer’s “personal records” – which includes records of a “physician, . . . , physical therapist, acupuncturist, podiatrist, . . . pharmacist, pharmacy, hospital medical center, clinic, radiology or MRI center, clinical or diagnostic laboratory” (See, e.g. *County of Los Angeles v. Superior Court* (2021) 65 Cal.App.5th 621, 641 [patients have a right to privacy with respect to information in medical records, and that right is well settled, as it is a right protected by state and federal statutes].) Pursuant to *Williams v. Superior Court, supra*, 3 Cal.4th at page 552, the party asserting a privacy right must establish a legally protected privacy right, an objectively reasonable expectation of privacy, and a threatened intrusion that is serious. The party seeking information may raise in response whatever legitimate and important countervailing interests disclosure serves, while the party seeking protection may identify feasible alternatives that serve the same interests or protective measures that would diminish the loss or privacy. A court must then balance these competing considerations. (*Ibid.*) Only when the invasion is serious, involving interests fundamental to personal autonomy, must the party seeking the information show a compelling interest. (*Id.* at p. 557.)

Add to this calculus the standards enunciated in *Davis v. Superior Court*. “In determining whether one has waived the right of privacy by bringing [a lawsuit], our Supreme Court has noted that although there may be an implicit partial waiver, the scope of such waiver must be narrowly, rather than expansively construed, so that plaintiffs will not be unduly deterred from instituting lawsuits by fear of exposure of privacy activities.[Citations.] An implicit waiver of a party’s constitutional rights encompasses only discovery *directly relevant* to the plaintiff’s claim and essential to the fair resolution. [Citation.] There must be a compelling and opposing state interest justifying discovery. [Citation.] Even when discovery of private information is found directly relevant to the issue of ongoing litigation, it will not be automatically allowed; there must then be a careful balancing of the compelling public need for discovery against the fundamental right of privacy. [Citation.] The scope of any disclosure must

be narrowly circumscribed, drawn with narrow specificity, and must proceed by the least intrusive manner.” (*Davis, supra*, 7 Cal.App.4th at p. 1014, italics in original.)

The analysis in *Davis* seems particular apt here. There, plaintiff filed a “garden-variety” motor vehicle personal injury action, alleging general damages, loss of earning capacity, wage loss and other compensatory damages. (*Id.* at p. 1015.) In order to determine whether and to what degree a waiver existed by the filing of the action, the *Davis* court was required to identify the issues tendered based on discovery responses offered by plaintiff. In a supplemental declaration in support of the motion to quash, for example, counsel for petitioner noted that there was no claim for mental and emotional distress “apart for her claim for damages for pain and suffering associated with the injuries sustained in the subject automobile,” and the medical provider “provided no treatment to plaintiff in connection with the injuries for which she seeks compensation in this personal injury action.” (*Id.* at p. 1015.) “By so stating,” according to the *Davis* court, “petitioner has thus limited her claim for emotional distress damages to pain and suffering associated with the injuries she sustained to her left wrist, upper arm, shoulder, neck, back and right knee.” The *Davis* court observed that “it has been held elsewhere that the filing of personal injury action seeking damages for pain and suffering des not, ipso facto, place mental condition in issue as part of the claim.” Further, the cases reviewed “all appear to include specific averments or reasonable interpretations drawn from the pleading which clearly place mental condition in issue.” (*Id.* at p. 1017.) The *Davis* court also observed that the burden is on the party seeking constitutionally protected information to establish direct relevance, and the “materials sought must be directly relevant to the” issues in the lawsuit. “Real party seeks a broad range of materials. Here, the materials sought must be directly relevant to the issue of pain and suffering associated with the physical injuries petitioner sustained. By limiting her claim for emotional distress to pain and suffering associated with the stated physical injuries, and by explaining that the center provided not treatment in connection with the injuries for which compensation was sought, petitioner established that it is not reasonably probable that the records are directly relevant to the condition she placed in issue.” (*Id.* at p. 1017.) Additionally, real party in interest has made no showing that the evidence sought was directly relevant, speculating only that the records requested “could be material” and “relevant to various issues in the action. . . . We are mindful of the scope of the materials requested. Real party seeks any and all medical or hospital records relating to the care and treatment of petitioner to date; real party has made no attempt to limit the request to specific matters directly relevant to petitioner’s pain and suffering from the physical injuries. Petitioner has established that the records do not concern treatment for the injuries for which she claims damages. The request is thus overbroad because it necessarily encompasses privileged material which is not relevant to the lawsuit.” (*Id.* at p. 1018.) “Petitioner here has clearly limited her claim to pain and suffering associated with the injuries to her body. Nothing prevents real party from seeking records directly relevant to such claim by a narrowly drawn discovery request. . . . [¶] The trial court’s limiting disclosure to 10-year period and provide for confidentiality did not cure the constitution defect in its ruling.” (*Ibid.*)

With this background, it is apparent to the court that the medical records in the possession of the seven deponents are generally privileged by statute and under the state constitutional right of privacy, contrary to defendant's contentions. Plaintiff, per *Williams*, has therefore demonstrated that a legally protected privacy interest exists. It is also clear, per *Davis*, that at least as to those medical records that are "directly relevant" to the lawsuit filed, defendant cannot establish a reasonable expectation of privacy right in those documents. In order to determine what is "directly relevant," therefore, the court must apply the methodology articulated in *Davis*,¹ and examine the operative pleading and plaintiff's discovery responses (via Form Interrogatory responses, as attached to defendant's opposition), to determine the scope and nature of the lawsuit, which will frame the nature of the disclosures requested and thus required.

The complaint filed by plaintiff appears to be the same "garden variety" motor vehicle complaint in *Davis*, asking generically for damages including wage loss, hospital and medical expenses, general damages, loss of earning capacity. In response to Form Interrogatory 6.1, propounded by defendant, plaintiff identified the following injuries she suffered as a result of the accident: she "suffered injury to her left knee, her neck, her right upper/mid back, her right shoulder, and radiating pain down her right arm." In response to Form Interrogatory 6.3, plaintiff described the specific injuries suffered as result of the accident as follows: "Responding party continues to suffer from pain in her left knee[,] which is constant and progressively worse, and pain in her neck, shoulder and back which is intermittent and remaining the same." In response to Form Interrogatory 6.4, plaintiff indicated the following "health care providers" treated plaintiff for injuries suffered as a result of the accident in question – Orthopedic Surgery Practice, Health Spectrum Chiropractic, West Coast Rx Pharmacy, and Santa Barbara Cottage Hospital. Plaintiff in responses to Form Interrogatory 6.5, 6.6, and 6.7, admitted taking prescription medication for the injuries suffered in the accident (listing the medicine and provider), and indicated the following providers advised that future or additional treatment may be required for injuries suffered as result of the accident: Dr. Pifer at Orthopedic Surgical Practice.

In Form Interrogatory 10.1, defendant asked whether plaintiff had any complaints or injuries before the accident in question that "involved the same part of your body claimed to have been injured" in the accident, and plaintiff identified the following body parts: 1) left knee, including surgery in 2021 and 2023; and 2) "intermittent neck and back discomfort occurred intermittently," most recently "months before the accident," and plaintiff identified seven health care providers – Advanced Chiropractic Group, The Spine Orthopedic Center, Pueblo Radiology Medical Group, Carrillo Surgery Center, Dr. Robert Martin, Dr. Robert Wood, Santa Barbara County Public Health Department, and Santa Barbara Cottage Hospital. Plaintiff also indicated

¹ The issue in *Davis* was whether the moving party was entitled to all medical records associated with plaintiff's generic pain and suffering claim, while the discovery issue here involves the scope of any release of medical records involving plaintiff's physical injuries caused by the accident. Although the issues are different, the *Davis* methodology remains relevant.

that the neck and back pain was “resolved prior to the” accident. In response to Form Interrogatory 10.2, which asked for plaintiff to describe all physical, mental, and emotional injuries suffered before the accident at issue, plaintiff indicated that she had had surgery on her left knee “approximately 10 days earlier” to the accident and was recovering from that procedure when the accident occurred. “Plaintiff does not assert any other physical, mental, or emotional disabilities at this time.” And in response to Form Interrogatory 10.3, which asked plaintiff to describe any injuries sustained after the accident, plaintiff indicated there was none.

Finally, as relevant for our purposes, plaintiff’s responses to Form Interrogatories 11.1 and 11.2 indicated that plaintiff “in the past 10 years” had made claims about “injury to her head, neck, back and knee,” and lists when such claims were made. She indicated that she “was diagnosed with a herniated disk in her lumbar spine, radiculopathy, lumbar facet arthropathy, and a complex tear in the medial meniscus of the left knee. Plaintiff also suffers anxiety while driving as a result of the accident.” Plaintiff indicated that she had not made any claim for worker’s compensation as result of any prior injury.

Some of the medical records in possession of the seven deponents are directly relevant to this lawsuit, based on physical injuries suffered by plaintiff “to [her] left knee, her neck, her right upper/mid back, her right shoulder, and radiating pain down her right arm.” Defendant is therefore entitled to the medical records associated with injuries, generated from October 29, 2023, to the present time. It is *inappropriate*, therefore, for defendant to request all medical documents for an injuries to plaintiff’s head, hips, and legs, or any other injury to any other body part, at any time. This comports with the *Davis* and its conclusion that the scope of the disclosure requirement for waiver must be narrowly circumscribed, drawn with narrow specificity, and must proceed in the least intrusive manner. Further, defendant, per *Williams*, has not shown a compelling interest in any other medical records.

Also directly relevant to this lawsuit, per *Davis*, would be records disclosing previous injuries suffered by plaintiff that involve the exact same body parts as were injured in the vehicle accident – injuries to plaintiff’s knees, neck, mid-back, and right shoulder, radiating pain down her right arm. In Form Interrogatory 10.1, plaintiff identified previous surgery for her knee between 2021 and 2023, as well as “neck and back” pain (although the issues apparently were resolved prior to the accident). No other body parts are identified. Accordingly, defendant will be allowed to see documents involving plaintiff’s preexisting injuries regarding her knee and neck/back in order to mitigate any damages suffered in the accident under a causation rationale, all subsumed under comparative fault. This is not a freewheeling, no holes-barred pursuit, but is limited to the injuries plaintiff concedes existed in the past – to her knee and neck/back. Again, this is in recognition per *Davis* that the court is required to narrowly circumscribe the waiver at issue, with disclosure drawn narrowly and in least intrusive manner. Again, defendant has failed to show a compelling need for disclosure for any other documents about any other past injury.

Plaintiff in opposition does not object to the type of information that would be produced within these narrowly drawn parameters – in terms of the deposition notice, that would include “examinations, medical/history, diagnosis, treatment, testing, radiology, prognosis, prescriptions, and billing (including, but not limited to payments, adjustments, reimbursements, and explanations of benefit.)” Accordingly, the court concludes that the deposition notice properly described the types of documents required to be disclosed within the limited parameters detailed above.

This leaves the durational component of the deposition notice – that is, defendant’s request for records of earlier injuries involving the knee and neck/back as far back as October 29, **2008**. The court finds that time frame is inappropriate, for at the very least plaintiff has failed to show a compelling need for documents that go as far back as 2008 (i.e., some 15 years before the accident). As *Williams* made clear, this assessment takes into account the seriousness of the invasion and the availability of alternatives and protective measures. It appears to the court that the medical records involving the knee and the neck and back need only go far back as January 1, 2021. If disclosure of these records indicates other medical records should be disclosed, a further deposition notice can be made. At this time, the court finds the best course of action to be an incremental one, in light of the substantial privacy interests at stake. The court finds the deposition notice improperly asks for disclosure of records as far back as October 29, 2008 – it should be limited to January 1, 2021.

Monetary sanctions are the last issue to be resolved. Defendant in opposition asks for sanctions of \$869.95 per motion. As the court grants the motion in part and denies the motion in part, and as each request for monetary sanctions is predicated on a claimed meet and confer obligation that does not exist, the court denies all requests for monetary sanctions.

Summary:

The court rejects defendant’s procedural arguments that a separate statement was required. It also rejects defendant’s claim that plaintiff was required to meet and confer. Finally, the court’s rejects defendant’s request for an in-camera review, as a more narrowly tailored notice will solve the discovery problems.

On the merits, the court determines that plaintiff has established that the medical records at issue in each of the seven subpoenas are privileged under the state constitutional right of privacy, although it also clear that plaintiff has waived her privacy right to those documents that are *directly relevant* to this lawsuit. The court finds that the following documents are “directly relevant” to this lawsuit and thus should be disclosed:

1) all documents as described in the deposition involving the following injuries claimed by plaintiff to have been suffered in the October 29, 2023 accident -- to her left knee, her neck, her right upper/mid back, and her right shoulder, and radiating pain down her right arm, from October 29, 2023 to the present. No other documents about any other injuries/maladies are

authorized, as the court is required to construe the waiver narrowly and defendant has failed to show a compelling interest for any other documents;

2) all documents as described in the deposition notice that include plaintiff's *previous* injuries suffered to the same body parts as above, but limited to plaintiff's knee and injuries to plaintiff's neck and back, and nothing more. The court limits the durational scope of the latter category to documents that were generated after January 1, 2021 only. Again, these limitations comport with the requirement that a court must narrowly construe any waiver, and defendant has otherwise failed to show a compelling need for any other documents or documents before January 1, 2021. The court is taking an incremental approach to the discovery dispute. If any disclosed records suggest further disclosure is required, defendant can file a new deposition subpoena.

As the court is partially granting and partially denying all seven motions to quash, the court denies all money sanctions requested by defendant.

The court directs the parties to meet and confer and about the specific language of any future deposition subpoena as a result of the court's order, all within the parameters of the court's determinations.