
PARTIES/ATTORNEYS

Plaintiff	Benito Gomez Ramirez	John Ksajikian, Esq.
Defendant	Martina Salvador Cruz	Scott B. Spriggs Kinkle, Rodiger and Spriggs

TENTATIVE RULING

1. Motion: Quash Subpoenas Served on Allstate Insurance Company

The court intends to modify the request to documents related to the subject incident that prompted this lawsuit. The parties should be prepared to discuss whether any further limitation is necessary for those records that are related to the bodily injuries incurred and/or financial records or whether limiting production to the subject incident is adequate.

2. Motion: Quash Subpoena Served on Santa Maria Boxing Club

The parties should be prepared to discuss whether the subpoena needs to be modified to reflect any further temporal limitation.

According to the complaint, on April 23, 2022, plaintiffs Benito Gomez Ramirez and Emmanuel Gomez were traveling westbound on Fesler Street. At the intersection of Pine Street, defendant Martina Salvador Cruz failed to stop at a posted stop sign, causing defendants' vehicle to collide with plaintiffs' vehicle, the force of which caused plaintiff's vehicle to collide with a vehicle parked along a curb of Fesler St. As a result, plaintiffs sustained severe bodily injuries.

On April 26, 2024, plaintiffs filed motions to quash subpoenas served on Allstate Insurance and Santa Maria Boxing Club. Oppositions were filed on May 30, 2024. No reply had been filed as of June 7, 2024.

1. General Law

To obtain business records from a non-party, a party to litigation may serve a subpoena. (Code of Civil Procedure §§ 2020.010, 2020.020.) When the business records described in the deposition subpoena are personal records pertaining to a consumer, the deposition subpoena and a notice of privacy rights shall be served on

the consumer. (Code Civ. Proc., § 1985.3, subd. (e).) The Notice to Consumer must be served at least 5 days before service on the records custodian. (Code Civ. Proc. § 1985.3, subd. (b)(2), (3).) The consumer may object and if the parties cannot resolve their dispute, the objecting consumer may challenge the subpoena by a motion to quash. (Code Civ. Proc. §1987.1, subds. (a) and (b).) In response, the court may make an order quashing the subpoena entirely, modifying it, or directing compliance with it upon those terms or conditions as the court shall declare, including protective orders. In addition, the court may make any other order as may be appropriate to protect the person from unreasonable or oppressive demands, including unreasonable violations of the right of privacy of the person. (*Id.*)

There does not appear to be a “meet and confer” required before bringing a motion to quash. Plaintiffs rely on Code of Civil Procedure section 1987.1, which does not impose any “meet and confer” requirement before bringing a motion.¹

2. Motion: Quash Subpoena Served to Allstate Insurance Company

On or about April 1, 2024, defendant issued Deposition Subpoenas for Production of Business Records to Allstate Insurance Company c/o CT Corporation for:

“Any and all insurance records, medical records, correspondence, payments, claims and any other documents contained within the insurance file, excluding any privileged documents pertaining to BENITO GOMEZ RAMIREZ from the first date to, and including, the present. [¶] Type: Auto [¶] Policy#: 999267018”

(Ksajikian Decl., Exh. 1.)

Plaintiff served an objection to the subpoena on April 17, 2024. On April 26, 2024, plaintiff filed his motions to quash the subpoenas or alternatively limiting it to the relevant body parts. Opposition was filed on May 30, 2024. No reply had been filed as of June 7, 2024.

Plaintiff argues that production of the requested documents is a violation of his right to privacy. He argues the subpoena is overly broad because it “seek[s] a lifetime of medical and other records wholly unrelated to this case, the subject incident, the injuries incurred, or the body parts, organs, or organ systems at issue.” He concedes the filing of a lawsuit may be deemed a waiver of privacy as to matters

¹ Defendant argues that a meet and confer was required by Code of Civil Procedure section 2016.040. That code section states: “A meet and confer declaration in support of a motion shall state facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion.” It does not otherwise require a meet and confer prior to filing a motion to quash pursuant to Code of Civil Procedure section 1987.1, which is outside the scope of the Civil Discovery Act.

embraced by the action. (*Bearman v. Superior Court* (2004) 117 Cal.App.4th 463, 473.) But even when a plaintiff files an action that places his or her medical records at issue, waivers of constitutional rights are narrowly construed and not lightly found. (*Id.*) Plaintiff also argues the subpoena violates his right to privacy in his financial information to the extent it requests billing and financial records wholly unrelated to this case.

Defendant characterizes the request as being “general and broader than described by Plaintiff, but also asks only for the records under this policy, not for all records possessed by Allstate regarding Plaintiff.” It’s unclear how limiting the request to records “under this policy” is a useful limitation, particularly as the court is not told how Allstate categorizes its records. Moreover, it appears from the request that all records from the date the policy was instituted are sought (e.g., “from the date first to.”) Without adequate limitation, records from other incidents (should there be any) appear to be sought by this subpoena.

The court intends to modify the request to documents related to the subject incident that prompted this lawsuit. The parties should be prepared to discuss whether any further limitation is necessary for those records that are related to the bodily injuries incurred and/or financial records or whether limiting production to the subject incident is adequate.

3. Motion: Quash Subpoena Served on Santa Maria Boxing Club

On or about April 2, 2024, defendant issued Deposition Subpoenas for Production of Business Records to Santa Maria Boxing Club for production of:

“All gym and membership records pertaining to the person named below.
[¶]» RE: EMMANUEL GOMEZ BIRTH: 04/22/2004.”

(Ksajikian Decl., Exh. 1.)

Plaintiffs served an objection on April 23, 2024. On April 26, 2024, plaintiffs filed their motion to quash the subpoenas or alternatively limiting it to the relevant body parts. Opposition was filed on May 30, 2024. No reply had been filed as of June 7, 2024.

Plaintiffs largely repeat the same arguments as are raised in support of the motion to quash the subpoena directed at Allstate.² They argue that this subpoena

² Sometimes plaintiffs include the exact same argument as it made in support of the motion to quash the Allstate subpoena, such as “Similarly, medical care and treatment received by Plaintiff unrelated to the subject incident or his body parts, organs, or organ systems affected thereby may be referenced in the insurance documents requested.” (Motion, p. 5, ll. 28 – p. 6, ll. 1.) Or: “Once again, the subpoenas are so overly broad that they encompass and include billing, financial, and insurance records wholly unrelated to this case, for the reasons discussed above.” (Motion, p. 6, ll. 16-18.) While the court appreciates a perceived efficiency to the practitioner in “cutting and

is not narrowly tailored, instead seeking a “a lifetime of medical and other records wholly unrelated to this case, the subject incident, the injuries incurred, or the body parts, organs, or organ systems at issue.” The argument is hard to credit as the court is not convinced that “gym and membership records” qualify as medical records. Plaintiffs have made no argument in support of this assertion.

The relevance of the records are easy to see. In verified discovery, plaintiff Emmanuel Gomez has attested to injury to the right shoulder and lower back, and neck pain. Whether he has continued to participate in the sport of boxing (or other activities available at the Santa Maria Boxing Club, should there be any) may be relevant to assessing damage. Defendant argues the request is not overly broad because “Plaintiff is only 24, and this incident occurred in 2022, the number of years he would have been involved at the gym prior to the incident is limited already, due to age.” (Opposition, p. 4, ll. 1-3.) The court notes no evidence has been offered in support of this argument. The parties should be prepared to discuss whether the subpoena needs to be modified to reflect any further temporal limitation.

Appearances are required. Pursuant to the court’s remote appearance policy, appearance by Zoom Videoconference is optional, and does not require the filing of Judicial Council form RA-010, Notice of Remote Appearance,

“pasting” arguments from other motions, without adequate proofreading, that practitioner may leave the court without adequate guidance.