Tentative Rulings for May 29, 2025
Department 501

For any matter where an oral argument is requested and any party to the hearing desires a remote appearance, such request must be timely submitted to and approved by the hearing judge. In this department, the remote appearance will be conducted through Zoom. If approved, please provide the department's clerk a correct email address. (CRC 3.672, Fresno Sup.C. Local Rule 1.1.19)

There are no tentative rulings for the following cases. The hearing will go forward on these matters. If a person is under a court order to appear, he/she must do so. Otherwise, parties should appear unless they have notified the court that they will submit the matter without an appearance. (See California Rules of Court, rule 3.1304(c).) ***The above rule also applies to cases listed in this "must appear" section.***

The court has continued the following cases. The deadlines for opposition and reply papers will remain the same as for the original hearing date.

22CECG03368 ***RJP Latchkey, LLC v. Latchkey Pioneers, LLC*** **is continued to Thursday, June 12, 2025 at 3:30 pm in Department 501**

(Tentative Rulings begin at the next page)

Tentative Rulings for Department 501

Begin at the next page

(20)

Tentative Ruling

Re: ***Ryder Truck Rental, Inc. v. Major Transportation Services, Inc.***
Superior Court Case No. 24CECG04818

Hearing Date: May 29, 2025 (Dept. 501)

Motion: Demurrer to Complaint

Tentative Ruling:

To take the demurrer off calendar for failure to comply with Code of Civil Procedure section 430.41.

Explanation:

The demurring parties must meet in confer, *in person, by telephone, or by video conference*, prior to filing a demurrer, and file and serve with the motion a declaration detailing the meet and confer efforts. (Code Civ. Proc., § 430.41, subd. (a).) The unsigned declaration of defense counsel shows that he sent a letter to plaintiff's counsel detailing perceived deficiencies in the Complaint, plaintiff's counsel responded with a perfunctory and threating[1] email, but there was never any attempt to discuss the matter in person or by telephone. The court requires actual compliance with this statutory requirement, and expects plaintiff's counsel to meaningfully engage.

Pursuant to California Rules of Court, rule 3.1312(a), and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order adopting this tentative ruling will serve as the order of the court and service by the clerk will constitute notice of the order.

Tentative Ruling
Issued By: DTT on 5/21/2025 .
(Judge's initials) (Date)

[1] "Your meet and confer is completely without merit. Should you file a meritless demurrer, we will seek sanctions under CCP 128.7 against your client and your firm specifically. We are familiar with your firm's antics and will be dealt with accordingly." (Gill Decl., Exh. B.)

(34)

Tentative Ruling

Re: ***State of California v. J.C. Forkner Incorporated***
Superior Court Case No. 22CECG02470

Hearing Date: May 29, 2025 (Dept. 501)

Motion: by Plaintiff for Entry of Judgment

Tentative Ruling:

To grant. The court intends to sign the proposed court judgment. No appearances are necessary.

Pursuant to California Rules of Court, rule 3.1312(a), and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order adopting this tentative ruling will serve as the order of the court and service by the clerk will constitute notice of the order.

Tentative Ruling
Issued By: DTT on 5/23/2025.
(Judge's initials) (Date)

(03)

Tentative Ruling

Re: ***Prafford v. Trust-All Roofing, Inc.***
Case No. 24CECG01227

Hearing Date: May 29, 2025 (Dept. 501)

Motion: by Plaintiffs for Leave to Amend Complaint to Add Doe Defendant

Tentative Ruling:

To deny plaintiffs' motion for leave to amend the Complaint to add Paul Steven Brandt in place of a Doe defendant.

Explanation:

Under Code of Civil Procedure section 474, "[w]hen the plaintiff is ignorant of the name of a defendant, he must state that fact in the complaint, or the affidavit if the action is commenced by affidavit, and such defendant may be designated in any pleading or proceeding by any name, and when his true name is discovered, the pleading or proceeding must be amended accordingly…" (Code Civ. Proc., § 474.)

"This procedure is authorized when a plaintiff either does not know the true names of the defendants or is ignorant of the facts giving rise to a cause of action against them." (*Vincent v. Grayson* (1973) 30 Cal.App.3d 899, 905, citations omitted.) "The complaint must state a cause of action against each Doe defendant. It must allege that the plaintiff is ignorant of the Doe defendant's name. Moreover, the plaintiff must actually *be* ignorant of the Doe defendant's name, i.e., 'ignorant of the facts giving rise to a cause of action against that defendant.' When the plaintiff discovers a Doe defendant's true name, he or she must amend the complaint accordingly. Provided these requirements are satisfied, the amendment is deemed to 'relate[ ] back' to the filing date of the original complaint for purposes of the statute of limitations." (*Fireman's Fund Ins. Co. v. Sparks Construction, Inc.* (2004) 114 Cal.App.4th 1135, 1143, citations omitted.)

"'Code of Civil Procedure section 474 is to be liberally construed.' Nevertheless, its requirements, as so construed, are mandatory. Failure to comply with Code of Civil Procedure section 474 does not prevent a plaintiff from filing an amendment adding a new defendant; however, it does prevent the amendment from relating back." (*Id. at pp.* 1143–1144, citations omitted.) Thus, where the operative complaint does not contain any Doe allegations, the Doe amendment does not comply with section 474 and is ineffective to relate back and toll the statute as to the newly added defendants. (*Id*. at p. 1144.)

Plaintiffs have already filed a Doe amendment adding Paul Steven Brandt in place of Doe 1. (See Doe Amendment filed December 30, 2024.) Therefore, there is no need for plaintiffs to also bring a separate motion for leave to amend the Complaint, as they have already added him under the Doe amendment procedure set forth in Code of Civil

Procedure section 474. As a result, the motion to amend is moot because Brandt has already been added in place of Doe 1.

Also, to the extent plaintiffs may be attempting to amend the Complaint in other substantive ways, the motion is procedurally defective, as it does not comply with the requirements of rule 3.1324 of the California Rules of Court. Under rule 3.1324, a motion to amend a complaint must include a copy of the proposed amended complaint and state what allegations the proposed amendment will delete or add. (Cal. Rules of Court, rule 3.1324(a)(1)-(3).) The motion must also include a separate declaration that states (1) the effect of the amendment; (2) why the amendment is necessary and proper; (3) when the facts giving rise to the amended allegations were discovered; and (4) the reasons why the request for amendment was not made earlier. (Cal. Rules of Court, rule 3.1324(b)(1)-(4).)

In the present case, plaintiffs have not submitted a copy of their proposed amended complaint with their motion, so they have not complied with one of the requirements of rule 3.1324(a). Since the language of the rule is mandatory, stating that the party moving to amend "must" include a copy of the proposed amended pleading, plaintiffs' failure to comply with the requirement of presenting a copy of the proposed amended complaint is fatal to their motion.

Also, while plaintiffs have submitted two declarations in support of the motion to amend, the declarations fail to state when the facts giving rise to the amendment were discovered and why the request to amend the Complaint was not made earlier. Plaintiff's counsel claims in his declaration that "Plaintiffs identified Paul Steven Brandt as [the] individual responsible for the conduct alleged in the original complaint" and that the motion was made "promptly after identifying the DOE defendants" (apparently referring to Paul Steven Brandt). (Ingber decl., ¶¶ 1, 6.) However, counsel does not state when he discovered that Paul Brandt was involved in the underlying facts that form the basis for the case. Thus, he has not sufficiently explained when plaintiffs discovered that Paul Brandt might be a proper defendant. Also, he fails to explain why he did not seek to add Paul Brandt earlier. As a result, he has not complied with the Rules of Court regarding motions to amend the Complaint.

Plaintiff Trace Pafford has also submitted his own declaration in support of the motion. Plaintiff alleges that he texted and communicated with Paul Brandt on December 1 and 3, 2021, about the roof project and remediation of the mold issues. (Pafford decl., ¶¶ 2-5.) Plaintiff was at the property on more than one occasion when Paul Brandt directed his crew of workers to repair the roof and remediate the mold. (*Id*. at ¶¶ 4, 5.)

Thus, plaintiff has admitted that he was aware of Paul Brandt's involvement in the roofing project as early as December 2021, almost two years before the Complaint was filed. Plaintiff has not explained why he waited until February 2025 to amend the Complaint to add Paul Brandt as a defendant if he knew he had worked on the residence since December 2021. Therefore, plaintiffs have not shown that they were diligent in seeking to amend the Complaint and, in fact, plaintiff admits that he failed to add Paul Brandt as a defendant despite knowing his identity and involvement in the roof

project and mold remediation efforts since December 2021, which shows a lack of diligence.

Furthermore, plaintiffs' original Complaint does not comply with section 474's requirement that they allege that they were ignorant of the identities of the Doe defendants and therefore have named them using fictitious names. The Complaint names three Doe defendants, but it never states that plaintiffs are ignorant of the Does' true identities and thus they are being named fictitiously. Indeed, since plaintiffs knew that Paul Brandt was involved in the roof repair and mold remediation for almost two years before they filed their Complaint, it does not appear that they can truthfully allege that they were ignorant of his identity and potential liability when they filed the Complaint.

Also, the Complaint does not state any facts showing how the Does are liable for plaintiffs' injuries. It merely states that they are "other affiliates" of defendants Trust-All, Inc., and the Tollhouse. (See Complaint filed October 6, 2023, ¶ 6.) The Complaint does not explain why the Does would be liable if they are simply affiliates of the named defendants. For example, it does not state that the Does did any of the roof work or mold remediation on the residence, which is what plaintiffs now allege as the basis for holding Paul Brandt liable. Thus, the Complaint does not state any claim as to the Doe defendants, and does not comply with the requirements of section 474 for substituting a new defendant in place of a Doe defendant.

As a result, while plaintiffs can add Brandt as a new defendant, they have not shown that the claims against him "relate back" to the claims alleged in the original Complaint for the purpose of tolling the statute of limitations as to him since the filing of the Complaint. For all of the foregoing reasons, the court intends to deny plaintiffs' motion to amend the Complaint to add Paul Steven Brandt in place of a Doe defendant.

Pursuant to California Rules of Court, rule 3.1312(a), and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order adopting this tentative ruling will serve as the order of the court and service by the clerk will constitute notice of the order.

Tentative Ruling
Issued By: DTT on 5/23/2025.
(Judge's initials) (Date)

(34)

Tentative Ruling

Re:	***Cordoba v. American Honda Motor Co., Inc.*** Superior Court Case No. 22CECG02890
Hearing Date:	May 29, 2025 (Dept. 501)
Motion:	by American Honda Motor Co., Inc., for Summary Adjudication

Tentative Ruling:

To continue the hearing on defendant's motion for summary adjudication to Thursday, August 7, 2025, at 3:30 p.m. in Department 501. (Code Civ. Proc. § 437c, subd. (h).) The opposition and reply due dates shall run from the new hearing date.

Explanation:

Plaintiff has submitted a second affidavit requesting to continue the hearing on the motion for summary adjudication pursuant to Code of Civil Procedure section 437c, subdivision (h). The hearing on defendant's motion was originally noticed for February 19, 2025, and continued by the court to February 27, 2025. In response to plaintiff's first affidavit, the court continued the hearing from February 27, 2025, to April 16, 2025. At the hearing on April 16, 2025, plaintiff requested the court continue the hearing pursuant to the agreement of the parties and defendant confirmed that it had previously agreed to stipulate to continue the hearing but due to both attorneys being in trial both mistakenly failed to file a stipulation. On April 16, 2025, the court continued the hearing to May 29, 2025, with the agreement of counsel for both parties present. There was no indication that additional depositions were necessary to oppose the motion or that additional time was required.

The affidavit at bench is inadequate to support the requested continuance under subdivision (h). Plaintiff states the parties stipulated to use deposition transcripts from a separately filed action in this case. (Affidavit, ¶ 3.) The parties' stipulation, filed April 3, 2025, indicates the parties agreed that deposition transcripts and exhibits from defendant's persons most knowledgeable Chris Martin and Scott Hunter may be used in this action. Plaintiff's affidavit goes on to state the continuance is necessary to allow plaintiff to depose defendant's person most qualified. (Affidavit, ¶ 5.) There is no explanation of what essential facts are to be obtained from this additional deposition or reason as to why the discovery has not been obtained in the 185 days between the time the motion was served on November 5, 2024, and the date plaintiff's opposition was due on May 9, 2025. This information is necessary for a continuance under subdivision (h).

Plaintiff erroneously claims defendant's motion was filed and served without adequate statutory notice. (Affidavit, ¶ 5.) Defendant's motion was originally noticed with a hearing date of February 19, 2025, and filed and served on November 5, 2024, well within the statutory notice period of 81 days. Plaintiff has provided no authority for her apparent position that each continuance requires the equivalent of statutory notice

between the date of the continuance and the new hearing date.

Plaintiff has had 185 days to oppose the motion at bench after three continuances at the behest of the parties. Plaintiff has presented insufficient information to demonstrate why a fourth continuance is necessary to obtain discovery from defendant's person most qualified or how the depositions that are the subject of the April 3, 2025, stipulation are inadequate. Although the court intends to grant plaintiff's request to continue the hearing to allow the motion it to be heard on the merits, the court does not intend to grant further requests for continuances.

Pursuant to California Rules of Court, rule 3.1312(a), and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order adopting this tentative ruling will serve as the order of the court and service by the clerk will constitute notice of the order.

Tentative Ruling
Issued By: DTT on 5/23/2025.
(Judge's initials) (Date)

(37)

Tentative Ruling

Re: ***Lee Financial Services, a division of Fresno Truck Center v. Sai Truckline Inc***
Superior Court Case No. 25CECG00418

Hearing Date: May 29, 2025 (Dept. 501)

Motion: by Plaintiff for Writs of Possession Against Defendants Sai Truckline Inc and Sourabh Sharma

Tentative Ruling:

To deny in light of the entry of default against Defendants Sai Truckline, Inc., and Sourabh Sharma entered on May 5, 2025.

Explanation:

These motions request a prejudgment writ of possession, which is proper to request *before* final adjudication of the claims sued upon. (*Kemp Bros. Const., Inc. v. Titan Elec. Corp.* (2007) 146 Cal.App.4th 1474, 1476.) However, after serving the moving papers on defendants, plaintiff requested entry of defendants' defaults. The clerk entered default against Sai Truckline, Inc., and Sourabh Sharma on May 5, 2025. The entry of default instantly cuts off a defendant's right to appear in the action or participate in the proceedings unless the default is set aside or judgment is entered (i.e., giving the defendant the right to appeal). (*Devlin v. Kearny Mesa AMC/Jeep/Renault, Inc.* (1984) 155 Cal.App.3d 381, 385.) Due process would not be served by allowing a plaintiff to give defendants notice of a motion, but then cut off their right to defend themselves regarding that motion. Post-judgment enforcement procedures following judgment are available to plaintiff, if necessary.

Pursuant to California Rules of Court, rule 3.1312(a), and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order adopting this tentative ruling will serve as the order of the court and service by the clerk will constitute notice of the order.

Tentative Ruling
Issued By: DTT on 5/27/2025.
(Judge's initials) (Date)

(37)

Tentative Ruling

Re: ***In Re: Samantha Flores***
Court Case No. 24CECG04648

Hearing Date: May 29, 2025 (Dept. 501)

Motion: Petition to Compromise Minor's Claim

Tentative Ruling:

To deny, without prejudice. Petitioner must file an amended petition, with appropriate supporting papers and proposed orders, and obtain a new hearing date for consideration of the amended petition. (Super. Ct. Fresno County, Local Rules, rule 2.8.4.)

Explanation:

Expenses

Petitioner has substantiated the MediCal lien. However, while it appears that one of the costs was to pay for the records from Accident Recovery Center, there are no billing records included for this medical provider. A portion of the documents attached at Attachment Number 14 also suggests that the cost for obtaining the records may have been added to the lien. The court is concerned that a portion of the asserted $823 in medical expenses for Accident Recovery Center includes $185 of the asserted costs.

CUTMA

The California Uniform Transfers to Minors Act ("CUTMA") is found at Probate Code section 3900 et seq. A transfer made pursuant to CUTMA is irrevocable and the "custodial property is indefeasibly vested in the minor." (Prob. Code, § 3909, subd. (a)(4) and § 3911, subd. (b).) A custodian is subject to fiduciary duties as outlined in section 3912, and section 3913 states any "rights, power and authority" exercised over the custodial property shall be only in that fiduciary capacity, subject to liability for breach. However, the custodian is not under the watchful eye of the court, like a probate guardian is, who has to file periodic accountings. Nor is the account blocked. Instead, expenditures or withdrawals from the account are entirely within the discretion (albeit subject to fiduciary duties) of the custodian.

While CUTMA accounts are often used by private parties as a means of giving gifts to minors, it is extremely uncommon for the court to order this in a minor's compromise situation. Petitioner has not provided a basis for the court to make an exception here. In fact, there is no explanation for why the balance should be divided between a blocked account and utilizing CUTMA.

Attorney's Fees

The Petition includes an attorney's declaration in compliance with California Rules of Court, rule 7.955(b), and also attaches the attorney-client fee agreement. Counsel is requesting 33 1/3% of the settlement amount. This is the amount agreed upon in the attorney-client agreement. This amount is unjustifiably high and there is no good reason to exceed the standard 25%. One explanation provided is that counsel had to research CUTMA and whether a guardian could act as petitioner. Yet, counsel did not address how utilizing CUTMA provisions is in the best interests of the minor in any of the attachments. Without justification, the court is not inclined to award a heightened amount of attorney's fees.

Pursuant to California Rules of Court, Rule 3.1312 and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order adopting this tentative ruling will serve as the order of the court and service by the clerk will constitute notice of the order.

Tentative Ruling
Issued By: DTT on 5/27/2025.
(Judge's initials) (Date)

(37)

Tentative Ruling

Re: ***In Re: Steeler Flores***
Court Case No. 24CECG04650

Hearing Date: May 29, 2025 (Dept. 501)

Motion: Petition to Compromise Minor's Claim

Tentative Ruling:

To deny, without prejudice. Petitioner must file an amended petition, with appropriate supporting papers and proposed orders, and obtain a new hearing date for consideration of the amended petition. (Super. Ct. Fresno County, Local Rules, rule 2.8.4.)

Explanation:

Expenses

Petitioner has not substantiated the MediCal lien. While a letter was attached indicating notice had been provided to MediCal, no letter regarding the final amount MediCal has agreed to accept was attached to the Petition.

Also, while it appears that one of the costs was to pay for the records from Accident Recovery Center, there are no billing records included for this medical provider. A portion of the documents attached at Attachment Number 14 also suggests that the cost for obtaining the records may have been added to the lien. The court is concerned that a portion of the asserted $683 in medical expenses for Accident Recovery Center includes $185 of the asserted costs.

CUTMA

The California Uniform Transfers to Minors Act ("CUTMA") is found at Probate Code section 3900 et seq. A transfer made pursuant to CUTMA is irrevocable and the "custodial property is indefeasibly vested in the minor." (Prob. Code, § 3909, subd. (a)(4) and § 3911, subd. (b).) A custodian is subject to fiduciary duties as outlined in section 3912, and section 3913 states any "rights, power and authority" exercised over the custodial property shall be only in that fiduciary capacity, subject to liability for breach. However, the custodian is not under the watchful eye of the court, like a probate guardian is, who has to file periodic accountings. Nor is the account blocked. Instead, expenditures or withdrawals from the account are entirely within the discretion (albeit subject to fiduciary duties) of the custodian.

While CUTMA accounts are often used by private parties as a means of giving gifts to minors, it is extremely uncommon for the court to order this in a minor's compromise situation. Petitioner has not provided a basis for the court to make an exception here. In fact, there is no explanation for why the balance should be divided between a blocked account and utilizing CUTMA.

Attorney's Fees

The Petition includes an attorney's declaration in compliance with California Rules of Court, rule 7.955(b), and also attaches the attorney-client fee agreement. Counsel is requesting 33 1/3% of the settlement amount. This is the amount agreed upon in the attorney-client agreement. This amount is unjustifiably high and there is no good reason to exceed the standard 25%. One explanation provided is that counsel had to research CUTMA and whether a guardian could act as petitioner. Yet, counsel did not address how utilizing CUTMA provisions is in the best interests of the minor in any of the attachments. Without justification, the court is not inclined to award a heightened amount of attorney's fees.

Pursuant to California Rules of Court, Rule 3.1312 and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order adopting this tentative ruling will serve as the order of the court and service by the clerk will constitute notice of the order.

Tentative Ruling
Issued By: **DTT** (Judge's initials) **on** **5/27/2025** (Date).

(35)

Tentative Ruling

Re: ***Hall v. Fresno Unified School District Employee Health Care Plan***
Superior Court Case No. 20CECG00607

Hearing Date: May 29, 2025 (Dept. 501)

Motion: (1) by Nonparty Ruthie Quinto to Quash Deposition Subpoena or, in the Alternative, to Modify Deposition Subpoena; and Request for Sanctions
(2) by Defendant Fresno Unified School District Employee Health Care Plan to Quash Deposition Subpoena or, in the Alternative, to Modify Deposition Subpoena; and Request for Sanctions

Tentative Rulings:

To deny nonparty Ruthie Quinto's motion to quash deposition subpoena. To grant nonparty Ruthie Quinto's alternative motion to modify deposition subpoena, striking Request Numbers 2, 5, 6, 7 and 8; and appending to Request Numbers 4, 10, 11 and 12 with "related to the allegations of the Fifth Amended Complaint."

To deny defendant Fresno Unified School District Employee Health Care Plan's motion to quash deposition subpoena. To grant Fresno Unified School District Employee Health Care Plan's alternative motion to modify deposition subpoena, striking Request Numbers 2, 5 and 6; and appending to Request Numbers 1, 3, 4, 9, 10, 11 and 12 with "related to the allegations of the Fifth Amended Complaint."

To deny all requests for sanctions.

Explanation:

Nonparty Ruthie Quinto's Motion to Quash

Nonparty Ruthie Quinto ("Quinto") seeks to quash or modify a deposition subpoena on the grounds of privacy and relevance under Code of Civil Procedure section 1987.1. Under Code of Civil Procedure section 1987.1:

> If a subpoena requires the attendance of a witness or the production of books, documents, electronically stored information, or other things before a court, or at the trial of an issue therein, or at the taking of a deposition, the court, upon motion reasonably made by any person described in subdivision (b), or upon the court's own motion after giving counsel notice and an opportunity to be heard, 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. (Code Civ. Proc., § 1987.1, subd. (a).)

The right to privacy is guaranteed by the California Constitution, Article 1, section 1. (*Britt v. Superior Court* (1978) 20 Cal.3d 844, 855.) The party seeking to discover confidential information must show a particularized need for the confidential information sought. The broad "relevancy" standard is insufficient. Instead, the information must be shown to be *directly* relevant to a cause of action or defense, i.e., that it is "essential to the fair resolution of the lawsuit." (*Id.* at pp. 859-862.) Even then, however, First Amendment principals "dictate that the compelled disclosure be narrowly drawn to assure maximum protection of the constitutional interests at stake." (*Id.* at p. 859.) The sought-after private records will not be discoverable if the information is available from other sources or through less intrusive means. (*Id.* at pp. 855-856 [discovery "cannot be pursued by means that broadly stifle fundamental personal liberties when the end can be more narrowly achieved."])

At issue here are document requests made under a subpoena for personal appearance and production of documents. The deposition subpoena identifies 12 categories of documents:

1. All communications related to Cheryl Hall between 2016 to present;
2. All communications related to any accounting firm that audited the finances of Fresno Unified School District Health Plan ("the Plan") and/or Fresno Unified School District ("FUSD") between 2016 to present;
3. Any and all audits of the Plan and/or FUSD between 2016 to present;
4. Any and all communications between YOU and the Plan and/or FUSD between 2016 to present;
5. All documents related to any claim or causes of action that the Plan and/or FUSD filed against YOU between 2016 to present;
6. Any and all notices of termination or discipline from the Plan and/or FUSD to YOU;
7. Any and all communications between YOU and Wiebe Hinton Hambalek, LLP between 2016 to present;
8. Every Form 700 (Statement of Economic Interests) filed by YOU between 2016 to present;
9. All communications between YOU and Jack London;
10. All communications between YOU and any person associated with Anthem Blue Cross;
11. All communications between you and any person associated with Delta Health; and
12. All communications between you and any person associated with Potomac Law Group.

Of the 12 categories of documents requested, Quinto submits that 9 of them are subject to privacy or are irrelevant to the pending matter: Request Numbers 2, 4, 5, 6, 7, 8, 10, 11 and 12.

As Quinto notes, some of these categories are private in nature, including the request for personnel records and statements of economic interest. (*See Board of Trustees v. Superior Court* (1981) 119 Cal.App.3d 516, 525-526, *overruled on other grounds by Williams v. Superior Court* (2017) 3 Cal.5th 531.) For similar reasons, the finances and any audits thereof of the Plan and FUSD are generally private in nature. Quinto further submits that Wiebe Hinton Hambalek, LLP were engaged for personal tax preparation and not from use by FUSD. (Quinto Decl., ¶ 2.) Quinto submits that the requests for communications are so broadly written as to invade privacy as the requests are not limited to the issues of the present matter and will involve many third parties, employment, and financial records.

Plaintiff Worldwide Aircraft Services, Inc. dba Jet ICU ("plaintiff") opposes, arguing that relevance standards are liberal and flexible, with doubts resolved in favor of disclosure.[2] In accordance with the liberal policies underlying the discovery procedures, doubts as to relevance should generally be resolved in favor of permitting discovery. (*Pacific Tel. & Tel. Co. v. Superior Court* (1970) 2 Cal.3d 161, 173.) However, "if the information sought to be elicited relates to matters of little or no practical benefit to the party seeking disclosure, a timely objection on the grounds that the question asked is not relevant to the subject matter in the pending action and not reasonably calculated to lead to admissible evidence should be sustained by a trial judge." (*Covell v. Superior Court* (1984) 159 Cal.App.3d 39, 42-43.) The more serious the invasion, the more substantial the showing of the need for the discovery that will be required before disclosure will be permitted. (*SCC Acquisitions, Inc. v. Superior Court* (2015) 243 Cal.App.4th 741, 755.) A party seeking discovery of private information need not always establish a compelling interest or compelling need without regard to other considerations as stated in *Hill v. National Collegiate Athletic Assn.* (1994) 7 Cal.4th 1, 35, including the strength of the privacy interest itself, the seriousness of the invasion, and the availability of alternatives and protective measures. (*Williams v. Superior Court, supra,* 3 Cal.5th at pp. 557-558.)

Plaintiff submits that the categories at issue may reveal intent to commit a fraud. However, as Quinto argues, fraud is not a cause of action of the Fifth Amended Complaint, which states only two causes of action, for quantum meruit, and Penal Code section 496 receipt of stolen property.[3] As Quinto suggests, at issue from the Fifth Amended Complaint is the value of the services rendered, and inquiry as to knowledge of the value of the services rendered to constitute knowledge of the withheld value of the services rendered. Though plaintiff suggests otherwise, what is *not* at issue is the entirety of the Plan or FUSD's financial condition, or Quinto's personal finances and employment history. Rather, as plaintiff impliedly concedes, the component of fraud is not so broad, and is limited to fraudulently obtaining property of another, alternatively referred to as theft by false pretense. (*Siry Investment, L.P. v. Farkhondehpour* (2022) 13 Cal.5th 333, 349-350, 361.)

Plaintiff further submits that these records are relevant to demonstrate a breach of a fiduciary duty. To whom the duty was owed is not stated, though plaintiff

[2] Quinto submits that the opposition was untimely. The court exercises discretion and considers the untimely filed opposition. (Cal. Rules of Ct., rule 3.1300(d).)

[3] Plaintiff's Request for Judicial Notice, as to each of Quinto's and the Plan's motion, is granted.

acknowledges that Quinto's oversight would have been to the financial practices of FUSD and the Joint Health Management Board. In any event, no cause of action was stated for a breach of fiduciary duty.

With regards to the remaining disputed categories of communication, plaintiff suggests that certain knowledge has been demonstrated to rest with Quinto as a decision maker in the approval process for medical claims. Quinto acknowledges her position and responsibilities on reply. The court finds that though the requests capture items that are relevant or may lead to admissible evidence, the requests are also so broadly written as to capture potential private information wholly unrelated to this action. There is no suggestion that Quinto only ever worked on claims belonging to Cheryl Hall as it pertains to the allegations of the Fifth Amended Complaint. Rather, it is not materially contested that Quinto served as the Chief Financial Officer at large for FUSD and served on the Joint Health Management Board. (Quinto Decl., ¶ 1.) The request, as Quinto argues, for "all" communications without limitation will necessarily and improperly capture private third-party information in this regard.

Based on the above, the court finds that plaintiff fails its burden to demonstrate a direct relevance to the issues of the Fifth Amended Complaint as to Request Numbers 2, 5, 6, 7 and 8. However, as Quinto concedes, there are portions of Request Numbers 4, 10, 11 and 12 that plaintiff may be entitled to discover. Accordingly, the motion to quash is denied. The alternative motion to modify the deposition subpoena is granted. The court strikes Requests Numbers 2, 5, 6, 7 and 8. The court appends each of Request Numbers 4, 10, 11 and 12[4] with "related to the allegations of the Fifth Amended Complaint."[5]

The Plan's Motion to Quash

The Plan separately seeks to quash to the deposition subpoena of Quinto. The Plan similarly contests certain categories of documents: Request Numbers 1, 2, 3, 4, 5, 6, 9, 10, 11 and 12. Except as to the introduction and conclusion, plaintiff submits identical oppositions between Quinto's motion and the Plan's.[6] Accordingly, and for the same reasons as indicated in Quinto's motion, Request Numbers 2, 4, 5, 6, 10, 11 and 12 will be modified or struck as indicated above. What remains are Request Numbers 1 and 9. These categories seeks all communications between either of Cheryl Hall, or Jack London. For similar reasons as the other communications-based requests, the scope of the request implicates private information that goes beyond the scope of the present matter.

[4] To the extent that the moving parties suggests that any responsive documents to Request No. 12 will be subject to attorney-client privilege, the moving parties may continue to timely assert those claims of privilege in accordance with the Code of Civil Procedure as warranted.

[5] Quinto further seeks to limit categories of testimony at deposition. This issue is premature in light of the present outcome. It is speculative whether a protective order is necessary at this juncture. The additional request for a protective order is denied. Quinto's Objection to the Declaration of Josiah Young is denied as moot.

[6] The Plan submits that the opposition was untimely. The court exercises discretion and considers the untimely filed opposition. (Cal. Rules of Ct., rule 3.1300(d).)

Based on the above, the Plan's motion to quash is denied. The alternative motion to modify the deposition subpoena is granted. The court strikes Request Numbers 2, 5 and 6. The court appends each of Request Numbers 1, 3, 4, 9, 10, 11 and 12 with "related to the allegations of the Fifth Amended Complaint."[7]

Sanctions

Quinto and the Plan separately seek monetary sanctions under Code of Civil Procedure section 1987.2 and the general sanctions statute of section 2023.030. Plaintiff also seeks sanctions in its oppositions, and further stating that Quinto and the Plan blanket refused to allow the deposition to proceed in any fashion to obstruct core discovery. Plaintiff further suggests that Quinto and the Plan did not actually engage in good-faith meet-and-confer. On reply, counsel for Quinto and the Plan contests plaintiff's representations.[8] The court finds that the motions were not made or opposed in bad faith or without substantial justification, or that the subpoena is oppressive. (Code Civ. Proc. § 1987.2, subd. (a).) Each party's request for monetary sanctions is therefore denied.

Pursuant to California Rules of Court, rule 3.1312(a), and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order adopting this tentative ruling will serve as the order of the court and service by the clerk will constitute notice of the order.

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[7] The Plan similarly further seeks to limit categories of testimony at deposition. This issue is premature in light of the present outcome. It is speculative whether a protective order is necessary at this juncture. The additional request for a protective order is denied. The Plan's Objection to the Declaration of Josiah Young is denied as moot.

[8] Plaintiff's Objection to the Declaration of Sweta H. Patel in Support of Reply Brief of each of Quinto's and the Plan's motions, which merely rebuts issues raised for the first time in oppositions thereto, is denied.