**Tentative Rulings for March 5, 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)**

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**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.***

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

**23CECG03057** ***Paul Maldonaldo v. General Motors LLC*** **is continued to Tuesday, March 18, 2025, in Department 501 at 3:30p.m.**

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**(Tentative Rulings begin at the next page)**

# Tentative Rulings for Department 501

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(34)

**Tentative Ruling**

Re: ***Guiba v. Patton***
Superior Court Case No. 23CECG02737

Hearing Date: March 5, 2025 (Dept. 501)

Motion: (1) by Defendant to Compel Plaintiff's Deposition

(2) by Defendant to Compel Plaintiff to Respond to Form Interrogatories, Special Interrogatories, and Requests for Production of Documents

**Tentative Ruling:**

To take all motions off calendar. (Code Civ. Proc., §2024.020, subd. (a).)

**Explanation:**

"Except as otherwise provided in this chapter, any party shall be entitled as a matter of right … to have motions concerning discovery heard on or before the 15th day, before the date initially set for the trial of the action." (Code Civ. Proc. § 2024.020, subd. (a).) "[A] party who notices a discovery motion to be heard *after* the discovery motion cutoff date does not have a right to have the motion heard." (*Pelton-Shepherd Industries, Inc. v. Delta Packaging Products, Inc.* (2008) 165 Cal.App.4th 1568, 1586, emphasis original.)

The court may grant leave to have a motion heard closer to the initial trial date or to reopen discovery upon motion of any party. (Code Civ. Proc. § 2024.050, subd. (a).) Among the factors to be considered in exercising its discretion are "[t]he diligence or lack of diligence of the party seeking the discovery or the hearing of a discovery motion, and the reasons that the discovery was not completed or that the discovery motion was not heard earlier." (Code Civ. Proc. § 2024.050, subd. (b) (2).)

The instant motions to compel discovery are set to be heard on March 5, 2025, twelve days before the trial. Discovery closed as of February 18, 2025. Defendant seeks to compel discovery *after* the close of discovery by motion set to be heard *after* the last date to hear a discovery motion before trial. Defendant has not also moved the court to reopen discovery or to hear the motions closer to the initial trial date. (Code Civ. Proc. § 2024.050.) As such, the court does not have discretion to consider the motions and defendant does not have the right to have the motions heard. (*Pelton-Shepherd Industries, Inc. v. Delta Packaging Products, Inc.* (2008) 165 Cal.App.4th 1568, 1587-1588.)

Additional issues further prevent the court from considering the merits of the motions. Defendant's motion to compel plaintiff's attendance at deposition lacks evidence plaintiff was provided the videoconference link necessary for her to join the deposition as required by the notice. (Peebles Decl., Exh. B, at 2:1-2.) The motions to compel responses to form interrogatories, special interrogatories, and requests for

production were filed fewer than 16 court days before the hearing. (Code Civ., Proc. § 1005, subd. (b).)

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 3/3/2025.**
(Judge's initials) (Date)

(35)

**Tentative Ruling**

Re: ***Iler v. Fresno Community Hospital and Medical Center***
Superior Court Case No. 23CECG03097

Hearing Date: March 5, 2025 (Dept. 501)

Motion: by Plaintiff to Quash Subpoena for Medical Records

**Tentative Ruling:**

To deny each motion to quash as to the subpoenas issued to Valley Health Team; Valley Foot and Ankle Specialty Providers; Valley Diabetic Foot Center; and Mindpath Health.

**Explanation:**

Plaintiff Henry Justin Iler ("plaintiff") seeks to quash subpoenas seeking certain records from Valley Health Team; Valley Foot and Ankle Specialty Providers; Valley Diabetic Foot Center; and Mindpath Health. As to each, plaintiff submits that these records are overbroad and irrelevant or otherwise subject to the right of privacy. Accordingly, plaintiff seeks to quash these subpoenas or, alternatively, limit the subpoenas to starting from August 14, 2022.

A party is entitled to discover the information as long as it is reasonably calculated to lead to the discovery of admissible evidence. (Code Civ. Proc. § 2017.010.) 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.) While discovery is broad, the right to discovery is not absolute. The California Constitution protects the individual's reasonable expectation of privacy against a serious invasion. (*Pioneer Electronics (USA), Inc. v. Superior Court* (2007) 40 Cal.4th 360, 370.) A reasonable expectation of privacy is an objective entitlement founded on broadly based and widely accepted community norms. (*Hill v. Nat'l Collegiate Athletic Assn.* (1994) 7 Cal.4th 1, 37.) The invasion of privacy must be serious in nature, scope, and actual or potential impact to constitute an egregious breach of social norms. (*Ibid.*) If the invasion is serious, the invasion must be measured against legitimate and important competing interests. (*Id.* at p. 38.)

Specifically, the patient-physician privilege creates a zone of privacy whose purpose are (1) to preclude the humiliation of the patient that might follow disclosure of ailments and (2) to encourage the patient's full disclosure to the physician all of the information necessary for effective diagnosis and treatment of the patient. (Evid. Code § 990 et seq.; *Board of Medical Quality Assurance v. Gherardini* (1979) 93 Cal.App.3d 669, 678-679, *overruled on other grounds by Williams v. Superior Court* (2017) 3 Cal.5th 531.) Thus, medical records fall within the protected ambit of the state Constitution right to privacy. (*Board of Medical Quality Assurance v. Gherardini*, *supra* 93 Cal.App.3d at p. 679.) Even absent a statutory privilege, the constitutional privilege would be held to operate. (*Davis v. Superior Court* (1992) 7 Cal.App.4th 1008, 1014.)

Plaintiff submits that any pre-existing conditions he may have had were fully known by defendant Fresno Community Hospital and Medical Center ("defendant") due to the care provided to him. This argument does not speak to the relevance or privacy of the records sought, and actually suggests that defendant was somehow entitled to those records as a function of the care provided.

Plaintiff further submits that the period of five years violates his privacy rights, and that medical records must be limited to directly relevant information. In its opposition, defendant attaches plaintiff's responses to form interrogatories. (Canepa Decl., ¶¶ 4, 5.) Plaintiff's responses attribute the damages he seeks to various mental and physical health conditions. (*Id.*, ¶ 6, and Ex. B thereto [Responses to Form Interrogatories 6-series, identifying Valley Health Team and Mindpath Health as care providers].) The responses further indicate that the mental and physical conditions may related to existing conditions. (*Id.* [Responses to Form Interrogatories 10-series, identifying Valley Diabetic Foot and Ankle Specialty Providers and Valley Diabetic Foot Center].)

From his discovery responses, plaintiff has directly placed these mental and physical health conditions at issue, as it pertains to his claim for damages. As defendant argues, where a party raises these medical conditions as an issue in the case, he waives his right to claim that the relevant medical records are privileged. (*City & County of San Francisco v. Superior Court* (1951) 37 Cal.2d 227, 232; *In re Lifschutz* (1970) 2 Cal.3d 415, 431 ["When the patient himself discloses those ailments by bringing an action in which they are in issue, there is no longer any reason for the privilege."]) Plaintiff does not suggest now that those responses were made in error or otherwise are not intended to support his claims for damages in the suit now pending. As some of the conditions are reported to precede the incident date, defendant is entitled to determine the scope of those preceding injuries to the extent that the incident may have contributed to those conditions.

Based on the above, the relief sought, to quash the issued subpoenas is denied. The alternative relief, to limit the subpoenas to records starting from the date of the incident of August 14, 2022, is 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.

**Tentative Ruling**
**Issued By: DTT on 3/3/2025.**
(Judge's initials) (Date)