Tentative Rulings for July 13, 2026
Department PS1

To request oral argument, you must notify Judicial Secretary Carol Delfosse-Kidd at (760) 904-5722 and inform all other counsel no later than 4:30 p.m.

This court follows California Rules of Court, Rule 3.1308 (a) (1) for tentative rulings (see Riverside Superior Court Local Rule 3316). Tentative Rulings for each law & motion matter are posted on the Internet by 3:00 p.m. on the court day immediately before the hearing at Riverside Superior Court-Tentative Rulings.. If you do not have Internet access, you may obtain the tentative ruling by telephone at (760) 904-5722.

To request oral argument, no later than 4:30 p.m. on the court day before the hearing you must (1) notify the judicial secretary for Department PS1 at (760) 904-5722 and (2) inform all other parties of the request and of their need to appear remotely, as stated below. If no request for oral argument is made by 4:30 p.m., the tentative ruling **will become the final ruling** on the matter effective the date of the hearing. **UNLESS OTHERWISE NOTED, THE PREVAILING PARTY IS TO GIVE NOTICE OF THE RULING.**

COUNSEL AND SELF-REPRESENTED PARTIES ARE ENCOURAGED TO APPEAR AT ANY LAW AND MOTION DEPARTMENT TELEPHONICALLY WHEN REQUESTING ORAL ARGUMENTS.

For information and instructions on remote appearances via **ZOOM**, visit the court's website at Riverside Superior Court-Remote Appearances

You may also make a Telephonic Appearance: On the day of the hearing, call into one of the below listed phone numbers, and input the meeting number (followed by #):

- Call-in Numbers: 1-833-568-8864 (Toll Free), 1-669-254-5252, 1-669-216-1590, 1-551-285-1373 or 1-646-828-7666
- Meeting Number: 160 520 9376

Please **MUTE** your phone until your case is called and it is your turn to speak. It is important to note that you must call fifteen (15) minutes prior to the scheduled hearing time to check in or there may be a delay in your case being heard.

Riverside Superior Court provides official court reporters for hearings on law and motion matters only for litigants who have been granted fee waivers and only upon their timely request. (See General Administrative Order No. 2021-19-1) Other parties desiring a record of the hearing must retain a reporter pro tempore.

1.

CASE #	CASE NAME	HEARING NAME
CVPS2301745	CAPITAL ONE N.A. VS SALAYKO	MOTION TO SET ASIDE DEFAULT JUDGMENT

Tentative Ruling: C.C.P. §473.5 authorizes the court to grant relief where there has been proper service of summons but defendant did not get actual notice of the action in time to defend. Relief under C.C.P. §473.5 must be sought within a "reasonable time" and in no event later than two years after entry of default judgment or 180 days after service of written notice that default or default judgment has been entered, whichever comes first. (C.C.P. §473.5(a); *Trackman v. Kenney* (2010) 187 Cal.App.4th 175, 180.) The notice of motion must be accompanied by a declaration showing defendant's lack of actual notice and that this lack of notice was not caused by his or her avoidance of service or inexcusable neglect. (C.C.P. §473.5(b); *Anastos v. Lee* (2004) 118 Cal.App.4th 1314, 1319.) The defendant must also file with the notice of motion a copy of the answer, motion or other pleading proposed to be filed in the action. (C.C.P. §473.5(b).) The defendant must show that their lack of actual notice was not caused by inexcusable neglect or avoidance of service. (*Tunis v. Barrow* (1986) 184 Cal.App.3d 1069, 1077-1078.)

Here, Defendant failed to comply with C.C.P. §473.5(b) requirement that a copy of the answer, motion or other pleading be submitted with the notice of motion to set aside. Defendant also admits in his motion that he received actual notice of the lawsuit on July 9th, 2025. However, the motion to set aside was not filed until 4.30.26, 9 months and 21 days later. Additionally, the Declaration of Reasonable Diligence submitted by Registered Process Server Bill McElroy, that he contacted an individual on 4.29.23 that they resided at the Saturnino address and that the subject (Salayko) received mail there. Under Evidence Code § 647, there is a rebuttable presumption of service when a return is submitted by a registered process server. Defendant has not submitted sufficient facts to overcome that presumption. Defendant has also failed to show compliance with the time restrictions of §473.5(b), as the entry of default occurred on 9.28.23, more than two years prior to Defendant's motion and well after the 180 days of service of notice of the default.

Under §473(d), If there has not been valid service of summons, the judgment violates due process of law and is void and can be set aside at any time (*Calvert v. Al Binali* (2018) 29 Cal.App.5th 954, 960-961; *Rochin v. Pat Johnson Mfg. Co.* (1998) 67 Cal.App.4th 1228, 1239.) "A judgment is considered void on its face only when the invalidity is apparent from an inspection of the judgment roll or court record without consideration of extrinsic evidence. When a default judgment has been taken, the judgment roll consists of the summons, with the affidavit or proof of service; the complaint; the request for entry of default … , and a copy of the judgment." (*Kremerman v. White* (2021) 71 Cal.App.5th 358, 370-371[internal quotation marks and citation omitted].) A judgment is void as a matter of law when there is a lack of subject matter jurisdiction, a lack of personal jurisdiction, a lack of actual or constructive notice of proceedings (e.g., because papers served on defendant's attorney who had been suspended by State Bar and thus had no authority to represent defendant), and may also be available when no statement of damages was served (*Heidary v. Yadollahi* (2002) 99 Cal.App.4th 857, 862) or when the default judgment exceeded the amount demanded in the complaint. In review of the default judgment from the court record, the court finds that the judgment is not void on its face.

2.

CASE #	CASE NAME	HEARING NAME
CVPS2504065	BROWN VS POWERS	DEMURRER ON 1ST AMENDED CROSS-COMPLAINT OF PATRICK POWERS BY JEFFREY BROWN, JR., JEFFREY BROWN, SR.

Tentative Ruling: No tentative ruling.

The hearing on the demurrer is continued to 8.28.26. The parties are ordered to ***meet and confer via in person, teleconference or phone*** for the purpose of determining whether an agreement can be reached that would resolve the objections raised in the demurrer. As part of the meet and confer process, Defendant shall identify the specific causes of action that it believes are subject to demurrer and identify with legal support the basis of the deficiencies. Plaintiffs shall provide legal support for their position that the pleading is legally sufficient or, in the alternative, how the complaint may be amended to cure any legal insufficiency.

After meeting and conferring, the parties shall 10 days before the continued hearing date set above do one of the following:
(1) Cross-Defendants vacate the hearing on the demurrer, and file an Answer;
(2) The Parties file with the court a joint declaration stating the parties have agreed that Cross-Complainants will file an amended cross-complaint before the date set forth above; or
(3) The Parties file with the court a joint declaration stating the means by which the parties met and conferred and identifying the specific objections in the demurrer and supporting memorandum of points and authorities that the parties were unable to resolve. (CCP §430.41(a)(3), CCP §435.5(a)(3).)

The court will not accept further briefing.

Case Management Conference continued to 8.28.26.

All Motions to Compel set for 8.21.26 are continued to 8.28.26 to be heard with other motions.

3.

CASE #	CASE NAME	HEARING NAME
CVPS2509844	CORTEZ VS CHAPMAN	MOTION TO QUASH OR MODIFY AMENDED SUBPOENAS SERVED BY DEFENDANT WILLIAM CHAPMAN AND REQUEST FOR MONETARY SANCTIONS BY WENDY ALEJANDRA CORTEZ

Tentative Ruling: Personal records (e.g., confidential personnel or medical records) of a "consumer" or an employee's employment records are sought by subpoena duces tecum served on a third-party records custodian. (See Code Civ. Proc., §§1985.3, 1985.6, 1987.1.) The categories of documents to be produced must be designated either by:

"Specifically describing each individual item" or "reasonably particularizing each category." (Code Civ. Proc., §2020.410(a).)

Either the nonparty witness who has been subpoenaed, or a party to the action, may challenge the deposition subpoena by a motion to quash or modify the subpoena. (*Southern Pac. Co. v. Superior Court in and for Los Angeles County* (1940) 15 Cal.2d 206, 209; Code Civ. Proc., §1987.1, subd. (a).) A subpoena may be attacked for: defects in form or content of the subpoena, such as inadequate description of requested documents in subpoena; records sought not within permissible scope of discovery (i.e., privileged, privacy or attorney work product; or not "relevant to the subject matter"; unjustly burdensome or oppressive demands; "consumer's" right of privacy in "personal records"). (Code Civ. Proc., §1985.8(e).)

The court, upon motion reasonably made by the party, the witness, any consumer, or employee whose personal records are sought, "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 and conditions as the court may declare, including protective orders." (Code Civ. Proc., § 1987.1(a)&(b)(1)-(3).) Also, the court may make any other order as may be appropriate to protect the parties, the witness, or the employee from "unreasonable or oppressive demands, including unreasonable violations of the right of privacy of the person. (Code Civ. Proc., § 1987.1(a).)

Here, the subpoenas seeking medical records and billing records, as framed, are overbroad as to time and scope and are not reasonably particularized, which may include records that are privileged and fall within the scope of Plaintiffs' right to privacy.

"There is no question that medical records are highly sensitive materials that fall within the scope of the right to privacy. [Citation.]" (*Manela v. Superior Court (Manela)* (2009) 177 Cal.App.4th 1139, 1150.) Although the physician-patient privilege with respect to the conditions in controversy may be waived in certain circumstances (Evid. Code, §996), Plaintiff still has a right of privacy in his or her medical records. Disclosure of medical histories may be compelled where the need for disclosure outweighs competing privacy concerns. (*Lewis v. Sup. Ct. (Medical Bd. Of Calif.)* (2017) 3 Cal.5th 561, 568-569.) Ordinarily, disclosure of relevant medical history is allowed because defendants have no other means by which to obtain this information. (*Palay v. Sup. Ct. (County of Los Angeles)* (1993) 18 Cal.App.4th 919, 934, disapproved on other grounds by *Williams v. Sup. Ct. (Marshalls of CA, LLC)* (2017) 3 Cal.5th 531, 556-557.) But this does not open up plaintiff's "lifetime" medical history. Plaintiff still have privacy rights as to physical and mental conditions unrelated to the claim or injury sued upon. (*Britt v. Superior Court (San Diego Unified Port Dist.)* (1978) 20 Cal.3d 844, 864.) "[D]etermination of the nature of the compelling state interest does not complete the constitutional equation. An impairment of the privacy interest passes constitutional muster only if it is necessary to achieve the compelling interest." (*Manela v. Sup. Ct., supra,* 177 Cal.App.4th at 1151, internal citations omitted.)

Defendant contends that Plaintiff must produce a privilege log in order to assess whether privilege exists or otherwise show there are privilege documents in the records being sought. However, it is the responsibility of the party seeking discovery to ensure that the categories of documents to be produced are designated either by: "Specifically describing each individual item" or "reasonably particularizing each category." (Code Civ. Proc., §2020.410(a).) The subpoenas in question seek broad categories of medical and billing records pertaining to Plaintiff dating back 10 years from the date of the collision.

As a general rule, discovery may be obtained as to any nonprivileged information "that is relevant to the subject matter involved…" (Code Civ. Proc., §2017.010.) Usually, "[a] patient tenders the issue of his physical health if he files an action for personal injuries but only as to information which relates to the claimed injuries." [Citation.] (*Slagle v. Superior Court* (1989) 211 Cal.App.3d 1309, 1313-1315 [A exception to the physician-patient privilege under Evid. Code, that information is relevant to the issue of proximate causation of the accident].) Medical records pertaining to Plaintiffs' injuries are directly relevant to the claims and defenses asserted in this case. However, information regarding medical conditions entirely different from the injury sued upon are beyond the scope of discovery and not "relevant to the subject matter." (Evid. Code, §999; *Slagle v. Superior Court, supra,* 211 Cal.App.3d at 1314-1315.)

Courts have indeed held that each discovery case must be determined on its own facts, and discovery should not be disallowed solely on the ground that it would enable a litigant to discover whether or not he has a cause of action or a defense. (*Los Angeles Cemetery Ass'n v. Superior Court of Los Angeles County* (1968) 268 Cal.App.2d 492, 494.) However, the information sought must pertain to some issue involved in the case and limited to facts known to the parties upon which a defense or claim is predicated. (See S*inger v. Superior Court of Contra Costa County* (1960) 54 Cal.2d 318, 325.) In narrow circumstances, medical records pertaining to an unrelated past condition are discoverable on a showing of "good cause" if the condition is relevant to the issue of proximate causation. (Evid. Code, §999; Slagle v. Superior Court (1989) 211 Cal.App.3d 1309, 1314-1315.) It is true that preexisting condition may be relevant in determining damages because "the measure of damages generally recoverable in tort is 'the amount which will compensate for all the detriment proximately caused' by the tort." (*Howell v. Hamilton Meats & Provisions, Inc.* (2011) 52 Cal.4th 541, 551.) Defendant offers no fact-specific showing of relevance to establish good cause in seeking records predating the subject incident.

Defendant also has not shown good cause in seeking claim records from Plaintiff's insurance carrier, Infinity. His only justification is that the claim files may contain medical records which Plaintiff may have turned over in order to avoid disclosure. This contention is purely speculative and not based on any facts specific to the claims and defenses in this action. A party seeking production of document from a nonparty must "set forth specific facts showing good cause justifying the discovery sought," as it is required for compelling document production from a party (Code Civ. Proc., §2031.310). (*Calcor Space Facility, Inc. v. Superior Court* (1997) 53 Cal.App.4th 216, 218.) The request for Infinity records also shares the same overbroad issues as those addressed above.

Plaintiff seeks sanctions to be imposed against Defendant in the amount of $3,821.36. In making an order pursuant to a motion to quash subpoenas, "the court may in its discretion award the amount of the reasonable expenses incurred in making or opposing the motion, including reasonable attorney's fees…." (Code Civ. Proc., § 1987.2(a).) Attorneys for each party represented that neither side properly attempted to meet and confer prior to this motion. The court informs the parties that failure to meet and confer prior to filing subsequent motions as required by law will result in sanctions as to both parties. Here, the court shall award sanctions in a higher amount that those imposed on 6.09.26 where Defendant had withdrawn the subpoenas prior to the hearing.

Motion to Quash or Modify Amended Subpoenas GRANTED.

Sanctions in the amount of $2571.36 (5.0 hours at $500/hr + $71.36 filing fee). Payable in 30 days to Plaintiff's attorney.

Case Management Conference and Motion to Compel Attendance at Deposition confirmed for 8.06.26.

4.

CASE #	CASE NAME	HEARING NAME
CVPS2509844	CORTEZ VS CHAPMAN	MOTION TO SEVER ON COMPLAINT FOR AUTO (OVER $35,000) OF WENDY ALEJANDRA CORTEZ

Tentative Ruling: "The court, in furtherance of convenience or to avoid prejudice, or when separate trials will be conducive to expedition and economy, may order a separate trial of any cause of action… or of any separate issue or of any number of causes of action or issues …" (Code Civ. Proc., § 1048, subd. (b).) The court may order bifurcation so that certain issues are tried before others "when the convenience of witnesses, the ends of justice of the economy and efficiency of handling the litigation would be promoted thereby." (Code Civ. Proc., § 598.)

Here, Defendants State Farm and Abebe are seeking to "sever" the lawsuit against them from the lawsuit against Chapman. Clearly, the two lawsuits involve independent claims giving rise to independent liabilities unrelated to fact and law. As moving Defendants point out, Plaintiffs' claims against them are substantially different from the claims against Chapman with respect to law and facts and would unnecessarily confuse the jury on the issue of liability. Plaintiffs' misrepresentation claims against moving Defendants are based on the allegation that: State Farm's claim adjuster Abebe represented to Plaintiffs' counsel during pre-suit negotiations that Defendant Chapman had authorized disclosure of the policy limits and confirmed that the policy coverage was $100,000 bodily injury per person/ $300,000 bodily injury per incident/ $100,000 for property damages. (Complaint, ¶ 29.) In reliance on this representation, Plaintiffs' counsel prepared a "time-limited demand seeking those limits" as Plaintiffs believed that their damages exceeded the limits. (Complaint, ¶¶ 30-31.) However, the representation was in fact untrue in that Abebe subsequently denied ever disclosing the policy limits to Plaintiffs' counsel and claimed that she lacked permission from Chapman to provide that information. (Complaint, ¶ 33.) Plaintiffs allege that Abebe made a misrepresentation to induce Plaintiffs to initiate settlement based on the misrepresentation and that, had such misrepresentation not been made, they would have chosen a "different course." (Complaint, ¶¶ 31, 34.) Plaintiffs allege that they sustained damages in the form of loss of the benefit of a clear and reasonable time-limited demand and incurred unnecessary additional fees and litigation cost. (Complaint, ¶ 37.) It is apparent that the negligence claims against Chapman do not bear on these post-accident occurrences.

As such, separate trials are justified in that there is no benefit or reason for trying all of the claims together as the alleged respective liabilities are not interdependent while a joint trial would be prejudicial to moving Defendants. Generally, an insurer may not be joined as a party-defendant in the underlying action for negligence against the insured by an injured party. (*Royal Surplus Lines Ins. Co, Inc. v. Ranger Ins. Co.* (2002) 100 Cal.App.4th 193.) Rather, an insurance company may be sued for its own torts arising from the same losses by the injured party who is not its insured. (*Mel H. Binning, Inc. v.*

Safeco Ins. Co. (1977) 74 Cal.App.3d 615, 619 [insurer alleged to have performed acts of intentional misrepresentation and fraud against the third party noninsured].) Hence, there is no benefit of a joint trial while there would be prejudice to moving Defendants in that determination of Chapman's liability may potentially influence the jury to conclude liability on the part of State Farm and Abebe. Further, as moving Defendants explain, the trial of fraudulent misrepresentation claims would require introduction of evidence of insurance whereas it would otherwise be inadmissible in the trial of the negligence claims against Chapman under Evidence Code section 1155, which provides that "[e]vidence that a person was … insured … against loss arising from liability is inadmissible to prove negligence or other wrong doing."

Plaintiffs' opposition provides no valid reason to deny the motion. They assert that damages they suffered from Abebe and State Farm's misrepresentation cannot be measured in isolation because the misrepresentation claims would require Chapman's testimony. However, the sole reason the separate claims would require testimonies from the same person does not mean that duplicative testimonies or evidence would be used in both trials. Further, Plaintiffs' claim that the damages they seek against Abebe and State Farm under the "tort of another doctrine" are measured directly by the extent and scope of the litigation against Chapman is without merit. Plaintiffs' Complaint does not include a count for tort of another nor allege any basis for such a claim.

Defendants Mary Abebe and State Farm Mutual Automobile Insurance Company's Motion to Sever GRANTED.

Defendants Mary Abebe and State Farm Mutual Automobile Insurance Company's Motion to Stay all Proceedings confirmed for 7.24.26.

5.

CASE #	CASE NAME	HEARING NAME
CVPS2600012	PEARCE VS ELLENZ	DEMURRER ON 1ST AMENDED COMPLAINT OF KENT PEARCE BY TIMOTHY ELLENZ, ANTHONY ELLENZ, CALIFORNIA WINDOW AND DOOR, INC.

Tentative Ruling:

No opposition filed.

Demurrer is SUSTAINED with leave to amend.

Plaintiff to file amended complaint within 20 days. The amended complaint shall address the deficiencies raised in Defendant's Demurrer to the First Amended Complaint, that the 1st-7th causes of action fail to state facts sufficient to constitute a cause of action.

Plaintiff may not amend the complaint to add a new cause of action without moving for leave to amend, unless the new cause of action is within the scope of the court's order. *Harris v. Wachovia Mortgage, FSB* (2010) 185 Cal.App.4th 1018, 1023.

Plaintiff's Motion for Leave to Amend First Amended Complaint set for 7.28.26 is VACATED.

Case Management Conference is continued to 10.27.26.