

**SUPERIOR COURT, STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

Department 1

Honorable Eunice Lee, Presiding

TBD, Courtroom Clerk

191 North First Street, San Jose, CA 95113

DATE: March 12, 2026 TIME: 9:00 A.M. and 9:01 A.M.

**To contest the ruling, call the Court at (408) 808-6856 before 4:00 P.M.
Make sure to also let the other side know before 4:00 P.M. that you plan to contest the ruling,
in accordance with California Rule of Court, Rule 3.1308(a)(1) and Local Rule 8.E**

****Please specify the issue to be contested when calling the Court and counsel****

LAW AND MOTION TENTATIVE RULINGS

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LAW AND MOTION TENTATIVE RULINGS

9:00 A.M.			
LINE 1	24CV440558	Theresa Tennis vs Sycamore Common Apts et al	Motion to Compel Further Interrogatories, Set One and Sanctions Off calendar as the motion is moot. On March 6, 2026, Sycamore Commons, LLC and Vasona Management, Inc. ("Defendants")/moving party, notified the court that the parties have reached a settlement and attached a Notice of Settlement.
LINE 2	24CV443783	Junjie Shao vs LA Solar Gorup Inc. et al	Motion to Compel Further Responses and Request for Admission, Set One. Scroll down to Line 2 for Tentative Ruling.
LINE 3	24CV453165	Greg Laffen vs Mercedes-Benz USA, LLC et al	Motion to Compel Further Responses to Request for Production of Documents, Set One. Off calendar as proceedings are stayed pending arbitration that was granted on September 9, 2025. On February 26, 2026 this motion was taken off calendar pending the stay. The matter is set for arbitration status review on August 13, 2026 at 11:00 a.m. in Department 1.
LINE 4	25CV475163	Gary Garcia Gutierrez vs Gerald Grady	Motion to Quash Subpoena for Production of Records Scroll down to Line 4 for Tentative Ruling.
LINE 5	22CV402699	David Kissner vs Lisa Fraser et al	Motion for Attorney's Fees The matter is to be reassigned as the court disqualifies itself pursuant to Code of Civil Procedure section 170.1(a)(6)(A)(iii). Further assignment of this matter shall be directed by the Honorable Shella Deen, Supervising Judge, Civil Division
LINE 6	25CV461332	Tim Smith vs Ford Motor Company et al	Motion to Compel Arbitration Off calendar. On March 2, 2026, the plaintiff dismissed defendant Visalia Ford without prejudice. In response, defendant Visalia Ford, the moving party, withdrew this motion to compel arbitration.

9:01 A.M.

LINE 1- 2	22CV394550	Daniel Angel vs Alon Design and Remodeling, Inc. et al.	Motion to Withdraw as Attorney Parties to appear.
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9:00 A.M.

Calendar Line #	2
Case Name	Junjie Shao vs LA Solar Gorup Inc. et al
Case No.	24CV443783
Motion to Compel Further Responses and Request for Admission, Set One.	
<p>Before this Court is the plaintiff, Junjie Shao’s motion to compel further responses and request for admissions, set one. The plaintiff filed this motion on June 5, 2025, with an attached proof of service via electronic service on that same day to defense counsel.</p> <p>Defendant LA Solar Group, Inc. (“Defendants”) opposes the motion and filed opposition papers on February 27, 2026. Defendants contend that the responses are complete and consistent with Form Interrogatory 17.1 and that the plaintiff seeks to force the defendant to admit is an issue for the trier of the fact to determine who is a “party” to the agreement.</p> <p><u>I. BACKGROUND</u></p> <p>The Court has carefully reviewed the moving papers, motion to compel, including notice, points and authorities, and Declaration of David Valdez, Jr. in support of the motion, and Exhibits 1-6 (totaling 51 pages); Separate Statement (totaling 7 pages); Defendant’s Opposition to Motion to Compel (totaling 8 pages); Motion to Compel (totaling 4 pages); the plaintiff’s Response/Reply brief, including Exhibit 7 (totaling 28 pages); and the pleadings.</p> <p>On October 18, 2024, Plaintiff propounded Request for Admissions, Set One on the defendant LA Solar. Defendant responded on December 4, 2024. Parties met-and-conferred regarding responses, and the defendant served further responses on February 28, 2025. However, the plaintiff contends that the defendant charged its response to request no. 2 from an admission to a denial without justification or a court order.</p> <p><u>II. LEGAL STANDARD</u></p> <p>California Code of Civil Procedure section 2033.250(a) requires a response from the party to whom the request for admissions is directed within thirty days after service of the request for admissions. If the party fails to serve a timely response, “the party to whom the requests for admission are directed waives any objection to the requests.” (Code Civ. Proc., § 2033.280, subd. (a).) The requesting party may then “move for an order that the genuineness of any documents and the truth of any matters specified in the requests be deemed admitted, as well as for monetary sanction under Chapter 7.” (Code Civ. Proc., § 2033.280, subd. (b).) Code of Civil Procedure sections 2033.290(a) provides that parties may move for a further response for requests for admissions where an answer to the requests are evasive or incomplete or where an objection is without merit or too general. Notice of the motions must be given within 45 days of service of the verified response, otherwise, the propounding party waives any right to compel a further response. (Code Civ. Proc., § 2033.290(c).) The motions must also be accompanied by a meet and confer declaration. (Code Civ. Proc. § 2033.290(b).) California Rules of Court, Rule 3.1345, requires that all motions or responses involving further discovery contain a separate statement with the text of each request, the response, and a statement of factual and legal reasons for compelling further responses.</p>	

Each response to a Request for Admission must contain either an answer or an objection to the particular RFA. (Code Civ. Proc. § 2033.210(b).) Each answer “shall be as complete and straightforward as the information reasonably available to the responding party permits.” (Code Civ. Proc. § 2033.220(a).) Absent an objection, the response must contain an admission, denial, or a statement claiming inability to admit or deny. (CCP § 2033.220(b) “Each answer shall ... [a]dmit so much of the matter involved in the request as is true, either as expressed in the request itself or as reasonably and clearly qualified by the responding party.” (Code Civ. Proc. § 2033.220(b)(1).) In lieu of admitting or denying the Request for Admission, a party may respond by claiming inability to admit or deny the matter stated in the request. (Code Civ. Proc. § 2033.220(c).) But a party responding in this manner *must also state that a reasonable inquiry was made* to obtain sufficient information. (Code Civ. Proc. § 2033.220(c).) The Discovery Act requires the responding party to undertake a “good faith” obligation to investigate sources reasonably available to him or her in formulating answers to Request for Admissions. (Code Civ. Proc. § 2033.220(c).) The propounding party may move to compel a proper response or to have the matter ordered admitted if the answering party has not made a reasonable inquiry or has access to “readily available” information that would enable him or her to admit or deny the matter. (See *Asea, Inc. v. Southern Pac. Transp. Co.* (1981) 669 F.2d 1242, 1245-1246.) Information known to a party's attorney or expert witnesses is deemed “obtainable” by the party. Therefore, responses to RFAs must be made in light of such information. (*Bloxham v. Saldinger* (2014) 228 Cal.App.4th 729, 752.).

A motion to deem admitted requests for admissions lies based upon a showing of failure to respond timely. (Code Civ. Proc., § 2033.280, subd. (b); *Demyer v. Costa Mesa Mobile Home Estates* (1995) 36 Cal.App.4th 393, 395 [disapproved on other grounds by *Wilcox v. Birtwhistle* (1999) 21 Cal.4th 973, 983]; Weil & Brown, Civ. Pro. Before Trial (The Rutter Group 2013) ¶ 8:1370.) Requests for admissions must be deemed admitted where no responses in substantial compliance were served before the hearing. (Code Civ. Proc., § 2033.280, subd. (c); Edmon & Karnow, *supra*, at ¶ 8:1375.) A court will deem requests admitted, “unless it finds that the party to whom the requests for admission have been directed has served, before the hearing on the motion, a proposed response to the requests for admission that is in substantial compliance with Section 2033.220.” (Code Civ. Proc., § 2033.280, subd. (c).)

Pursuant to Code of Civil Procedure section 2033.300 an amendment or withdrawal of “deemed admissions” ordered by the court under section 2033.280. Section 2033.300 states:

- (a) A party may withdraw or amend an admission made in response to a request for admission only on leave of court granted after notice to all parties.
- (b) The court may permit withdrawal or amendment of an admission only if it determines that the admission was the result of mistake, inadvertence, or excusable neglect, and that the party who obtained the admission will not be substantially prejudiced in maintaining that party's action or defense on the merits.
- (c) The court may impose conditions on the granting of the motion that are just, including, but not limited to, the following:

- (1) An order that the party who obtained the admission be permitted to pursue additional discovery related to the matter involved in the withdrawn or amended admission.

(2) An order that the costs of any additional discovery be borne in whole or in part by the party withdrawing or amending the admission.”

“Because the law strongly favors trial and disposition on the merits, any doubts in applying section 2033.300 must be resolved in favor of the party seeking relief. Accordingly, the court’s discretion to deny a motion under the statute is limited to circumstances where it is clear that the mistake, inadvertence, or neglect was inexcusable, or where it is clear that the withdrawal or amendment would substantially prejudice the party who obtained the admission in maintaining that party’s action or defense on the merits.” (New Albertsons, Inc. v. Superior Court (2008) 168 Cal.App.4th 1403, 1420-21.).

IV. ANALYSIS

The plaintiff seeks to compel further responses to Request for Admission, Set 1, Request No. 2 and for the admission to be deemed admitted. The plaintiff attempted to meet-and-confer with the defendants regarding its initial response as being evasive and incomplete. (Plaintiff’s moving papers, p. 6). In response, the defendant filed a further response, but simply changed its answer to “Deny” without further explanation or permission from the court as required under Code of Civil Procedure section 2033.300. The defendants also provided further response to For Interrogatories, Set One No. 17.1 detailing several terms of the PPA that apply to Defendant Hugues. However, the defendant’s response then states that Hughes is not a party because some of the conditional obligations did not take effect. Parties dispute the obligations arising from the Power Purchase Agreement.

REQUEST FOR ADMISSION NO. 2:

“HUGHES is a party to the PPA.”

RESPONSE TO REQUEST FOR ADMISSION NO. 2:

Response: Admit that HUGHES is the Power Purchase Agreement Provider pursuant to the PPA.

FURTHER RESPONSE TO REQUEST FOR ADMISSION NO. 2:

Response: Deny.

SECOND FURTHER RESPONSE TO REQUEST FOR ADMISSION NO. 2:

Response: Deny.

(b) Responding Party provided a total of three contracts to Propounding

Party as follows:

1. May 14, 2020, Power Purchase Agreement
2. May 31, 2020, Power Purchase Agreement
3. May 31, 2020, Residential Tesla Powerwall Installation Contract.

On the May 31, 2020 Power Purchase Agreement HUGHES is listed as the “PPA Provider.” Once the Project was completed, the “PPA Provider” would then sell Plaintiff power pursuant to the Agreement(s). The Agreement provided the LA Solar was the contractor and would install the system.

Pursuant to section 5.1 of the agreement, HUGHES conditional obligations are “...conditioned on the following items having been completed to its reasonable satisfaction by the Installer or other Service providers chosen by PPA Provider:

- a. Completion of the engineering site Audit (a thorough physical inspection of the Property, including, if applicable, geotechnical work),
- b. The final System design and real estate due diligence to confirm the suitability of the Property for the construction, installation and operation of the System.
- c. Approval of this PPA by PPA Provider’s financing partner(s);
- d. Confirmation of rebate, tax credit payment availability;
- e. Confirmation that PPA Provider will obtain all applicable benefits;
- f. Receipt of all necessary zoning, land use and building permits; and
- g. Completion of any renovations, improvements or changes reasonably required at the Property (e.g. removal of a tree or roof repairs necessary to enable PPA Provider to safely install the System) at Property Owner’s cost.”

As the conditional obligations had not been met and the system was not installed due to Plaintiff it is LA Solar’s understanding and position that HUGHES never became a party to the transactions as SHAO breached the agreements by not allowing LA SOLAR to complete the installation. (c)

1. Ara Petrosyan who may be contacted through counsel.
 2. Todd Hughes, who may be contacted through counsel;
 3. Dennis Avdic, 820 Mission Ave. 10, San Rafael, CA 9490; (315) 292-8243, Denis Avdic may be contacted through counsel.
 4. Propounding Party
- (d)
1. May 14, 2020, Power Purchase Agreement
 2. May 31, 2020, Power Purchase Agreement; and
 23. May 31, 2020, Residential Tesla Powerwall Installation Contract.

The plaintiff contends that the defendant’s initial response was effectively an admission although it was not complete and straightforward as it did not reference section of the subject Power Purchase Agreement to verify the truth of the matter. (Plaintiff’s moving papers, p. 6). Then, the plaintiff raises concern that the defendant changed its response to a denial without an order from the court. In its second further response, the defendant references the Power Purchase Agreements and continues to deny. Accordingly, the plaintiff seeks an order compelling a code complaint response, or to deem the answer admitted.

Defendants assert that as the conditions precedent were not met, Hughes did not become a “party” to his agreement and the two responses are the same that Huges was the PPA provider pursuant to the PPA upon certain conditions being met. The defendant claims that its original response and further requires are correct as “party” is not a defined term and Hughes is listed in the applicable contract as the PPA provider rather than installing contractor, which is LA Solar Group, Inc. Further, the defendant claims that the Request for Admission was posed the defendant requesting it to admit or deny if a third party, Hughes, is a “party” to the contract, and claims the request is more appropriately addressed to Hughes, which has not been added as a defendant in the First Amended Complaint.

V. CONCLUSION

Upon review of the briefing and foregoing, the court orders as follows:

REQUEST FOR ADMISSION NO. 2: DENIED as moot. There was a change from defendant’s initial response admitting that Hughes was a party to the PPA to its further and second further response, denying this admission. There was no explanation for this change. Moreover, there was no order granting leave to amend or withdraw the admission pursuant to Code of Civil Procedure 2033.300. Defendant also did not assert any objections to request for admissions No. 2 in any of its responses. While the defendant attempts to explain that its response is the same it is not. Even if the defendants argue that its responses are consistent with its response Form Interrogatories, Set One, No. 17.1, it cannot explain the substantive change from admission to denial of the response. As it stands, the defendant admitted Request for Admission No.2 and that initial response stands as there was no order to withdraw or amend under Code of Civil Procedure 2033.300. Thus, motion to compel regarding request for admission is denied as moot at this juncture. This is something that the parties may submit to the trier of fact.

Moving party to prepare the Order.

Calendar Line #	4
Case Name	Gary Garcia Guttierrez vs Gerald Grady
Case No.	25CV475163

Motion to Quash Subpoena for Production of Records

I. BACKGROUND

This personal injury case arises from an October 14, 2023, motor vehicle collision involving the defendant who was allegedly driving under the influence with a blood alcohol content of 0.05% and struck the plaintiff.¹ The plaintiff suffered injuries, including, but not limited to a fracture to the collarbone and bruises to bilateral legs as a result of the collision. Plaintiff continued to receive medical treatment. In the plaintiff’s discovery response, specifically form interrogatory 2.6, the plaintiff claims to have been off work for four months following the subject accident. During the plaintiff’s deposition on September 13, 2024, the parties deposed the plaintiff regarding his work history, position, hours worked post-accident, and paystubs. The defendant noted that there were two unexplained three-month gaps in pay periods (from October 22, 2023 to January 15, 2024 and January 28, 2024 to May 6, 2024). (Defendant’s Opposition, p. 2).

On September 15, 2025, the plaintiff filed a complaint seeking damages for loss of earnings and loss of earning potential or capacity. However, in his discovery responses, specifically form interrogatory 8.1, the plaintiff disclaimed all wage loss and loss of earning capacity damages. It is undisputed by the parties at this time that the plaintiff is not seeking loss of earnings. On January 9, 2026, the defendant filed a subpoena for “. . . Plaintiff’s employment records to investigate what information was Plaintiff was attempting to suppress by disclaiming his wage and earnings damages. This discovery dispute ensued.” (*Id.*, at p. 3). The plaintiff attempted to meet-and-confer with the defendant following the subpoena and prior to filing this motion. (Plaintiff’s motion, p. 5).

¹ The defendant also notes that the plaintiff was also involved in a prior motor vehicle accident on or around December 23, 2022, where he was struck by a vehicle while riding his scooter to work. The subject motor vehicle collision occurred on or around October 14, 2023. (Defendant’s opposition, p. 2).

On February 9, 2026, the plaintiff filed a motion to quash defendant’s subpoena for plaintiff’s employment records in its entirety, issue a protective order preventing further third-party discovery into the plaintiff’s employment records, and seeks sanctions in the amount of \$2,750.00. (*Id.*, at p. 9). The plaintiff claims the employment records are wholly irrelevant as the plaintiff is not making any claim for a loss of earnings and violates the plaintiff’s right to privacy. (*Id.*, at p. 7).

Defendant Gerald Grady filed opposition papers on February 27, 2026. The defendant has offered to modify the scope of the subpoena to “payroll, timecard, and accommodation-related records” to focus on the discovery of evidence regarding how much time the plaintiff missed from work, whether he committed perjury when he verified his response to form interrogatory No. 2.6, time the plaintiff missed from work after his two accidents, and whether the plaintiff’s employer accommodated the plaintiff’s claimed traumatic brain injuries. (Defendant’s Opposition, p. 4). It is undisputed that the defendant no longer seeks employment records outside the proposed modification for payroll, timecard, and accommodation related records, and not sensitive W-2 forms. The plaintiff contends that the defendant’s proposed modification is insufficient to address the plaintiff’s right to privacy and does not address that the records are irrelevant, as well as imposes a burden on a third-party, namely the plaintiff’s employer, Chipotle Mexican Grill. The defendant points out that the plaintiff has voluntarily produced several of his paystubs, which demonstrated a lack of privacy concern. (*Id.*, at p.8).

The court has carefully reviewed, the motion to quash, including memorandum of points and authorities, the Declaration of Ilia Borisov, and Exhibits A-C (totaling 32 pages); separate statement (totaling 4 pages); opposition/objections (10 totaling pages); and Declaration of Jennifer A. Stewart in support of Defendant’s opposition, including Exhibits A-D (totaling 28 pages); and plaintiff’s reply brief (totaling 7 pages).

II. LEGAL STANDARD

Pursuant to California Code of Civil Procedure section 19871.1(a), if a subpoena requires the production of documents, the court may quash the subpoena entirely or modify it. Unlike some other discovery motions, Code of Civil Procedure section 1987.1 does not set forth a meet-and-confer requirement. However, a separate statement is required to compel or quash the production of documents or tangible things at a deposition. (Cal. Code. Civ. Proc. § 1987.1(a) et seq. and California Rules of Court, Rule 3.1345(a)(5)). The separate statement must set forth the particular documents or demands at issue and the factual and legal reasons why production should not be compelled, and it must meet all of the other requirements of Rule 3.1345(c) and (d). Here, the plaintiff has submitted the required separate statement, and the discussion below is limited to the issues raised in the separate statement.

“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(a).)

California’s standard for discovery is broad: “any party may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action or to the determination of any motion made in that action, if the matter either is itself admissible in evidence or appears reasonably calculated to lead to the discovery of admissible evidence.” (Code Civ. Proc. § 2017.010.) Courts construe the right to discovery liberally to permit discovery whenever possible. (*Williams v. Superior Court* (1997) 3 Cal.5th 531, 541.) One of the purposes of the discovery is “to educate the parties concerning their claims and defenses so as to encourage settlements and to expedite and facilitate trial.” (*Emerson Electric Co. v. Superior Court* (1997) 16 Cal.4th 1101, 1107.)

Personal service of a deposition subpoena obligates the production of whatever documents or things are specified in the subpoena and to appear in any proceedings to enforce discovery. (Code Civ. Proc. § 2020.220(c).) If a nonparty disobeys a deposition subpoena, the subpoenaing party may seek a court order pursuant to Code of Civil Procedure section 1987.1 compelling the nonparty to comply with the subpoena within 60 days after completion of the deposition record. (Code Civ. Proc. § 2025.480(b); *UnzippedApparel, LLC v. Bader* (2007) 156 Cal.App.4th 123, 127.).

III. ANALYSIS

The plaintiff seeks to quash and a protective order regarding the defendant’s subpoena for the plaintiff’s employment records as follows:

DEFENDANTS’ SUBPOENA AS TO CHIPOTLE MEXICAN GRILL

“Any and all documents and records, and all writings, including but not limited to, employment payroll and applications for employment, work absence and incident reports, personnel records, pre-employment exam records and progress records, pertaining to the employment of Gary Garcia Gutierrez.”

REASONS WHY THE SUBPOENA SHOULD BE QUASHED AND/OR A PROTECTIVE ORDER ENTERED

Under C.C.P. §§ 1987.1 and 1985.3(g), Plaintiff can seek an order from this Court quashing Defendant’s subpoena. In ruling on Plaintiff’s motion, this Court may make an order “quashing the subpoena entirely, modifying it, or directing compliance with it upon such terms or conditions as the court shall declare, including protective orders.” The Court may also enter a protective order under C.C.P. § 2017.020(a) limiting the scope of discovery “if it determines that the...intrusiveness of that discovery clearly outweighs the likelihood that the information sought will lead to the discovery of admissible evidence.”

Here, Defendant’s subpoena for Plaintiff’s employment records is improper, overbroad, and seeks highly private information that is not relevant to any claim or defense in this case. Plaintiff has not asserted a claim for lost wages or loss of earning capacity, making any inquiry into Plaintiff’s employment wholly irrelevant.

Despite this, Defendant seeks to obtain Plaintiff's entire employment file, including employment payroll records, applications for employment, work absence and incident reports, personnel records, pre-employment examination records, and progress records, without any temporal limitation and without any showing that such information is reasonably calculated to lead to the discovery of admissible evidence.

Moreover, Plaintiff has already served objections and attempted to resolve this issue through the meet and confer process, but Defendant has refused to justify the subpoena or engage in a meaningful discussion. This further demonstrates that Defendant's tactics are intended to harass Plaintiff rather than obtain relevant discovery. (Plaintiff's Separate Statement, p.2).

The Court agrees that the subpoena is overbroad because it is not limited to scope of relevant information in relation to the case and time. Discovery standards hold that, "any party may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action . . . if the matter either is itself admissible in evidence or appears reasonably calculated to lead to the discovery of admissible evidence." (*Board of Registered Nursing v. Superior Court* (2021) 59 Cal.App.5th 1011, 1039.) "To meet this [test], a party seeking to compel [the] production of records . . . must articulate specific facts justifying the discovery sought; it may not rely on mere generalities." (*Ibid.*; see *Johnson v. Superior Court* (1968) 258 Cal.App.2d 829, 837 [finding that a subpoena was "insufficient" to compel production because it was "based wholly on the [party's] alleged information and belief without any statement of supporting facts"].) However, "[e]ven if information is otherwise discoverable, it may be protected by a constitutional or statutory privilege[,] [including] the right to privacy" (*Board of Nursing, supra*, 59 Cal.App.5th at p. 1039.)

"The state Constitution expressly grants Californians a right of privacy. Protection of informational privacy is the provision's central concern . . . The party asserting a privacy right must establish a legally protected privacy interest, an objectively reasonable expectation of privacy in the given circumstances, 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 of privacy. A court must then balance these competing considerations." (*Williams v. Superior Court* (2017) 3 Cal.5th 531, 552.). "[T]he filing of a lawsuit may implicitly bring about a partial waiver of one's constitutional right of . . . privacy." (*Britt v. Superior Court* (1978) 20 Cal.3d 844, 859.). However, the California Supreme Court held that "the scope of such 'waiver' must be narrowly rather than expansively construed." (*Id.*). "[W]hile [a plaintiff] may not withhold information which relates to any physical or mental condition which they have put in issue by bringing this lawsuit, they are entitled to retain the confidentiality of all unrelated medical or psychotherapeutic treatment they may have undergone in the past." (*Id.*) Therefore, a patient cannot reasonably expect certain matters to remain private if they are related to the specific issues that the patient has brought before a court. On the other hand, it is objectively reasonable to expect health care records that are unrelated to a current legal dispute to remain private.

Here, while the defendants seek documents pertaining to employment records it is related to a motor vehicle accident in which the plaintiff claims damages. Employment records

pertaining to reasonable accommodations, missed hours of work, timecards and payroll may be relevant to assessing the scope of damages. However, any and all employment records as requested in the subpoena is overbroad, irrelevant, and the violates the plaintiff's right to privacy. Limiting the scope of the subpoena in regard to the specific type of documents and timeframe balances the issue at hand. As in *Britt*, the plaintiff has partially waived his right to medical privacy as to the physical and mental conditions he put at issue in this personal injury action, thus reasonable medical accommodations for work are relevant and does not violate his right to privacy.

IV. SANCTIONS

Plaintiff seeks sanctions in the amount of \$2,750.00 under Code of Civil Procedure section 2023.0360(a). The defendant opposes any imposition of sanctions on the grounds that it acted with substantial justification in this discovery dispute and that sanctions are not warranted. Plaintiff challenges defenses assertion responding that issuing a subpoena for "any and all" employment record without limitation and then admitting "I don't know what's in the records we have subpoenaed but now I'm very curious to find out." (Plaintiff's Reply p. 4; Exhibit B to Declaration of Borisov) shows a lack of substantial justification. Plaintiff also points out that the defendants only offered to limit the scope of the subpoena after this motion to quash the subpoena was filed. Plaintiff also contends that despite his efforts to meet-and-confer the defense filed the subpoena. The defendant responds that section 1987.1 does not require meet-and-confer.

Code of Civil Procedure § 1987.2 provides that the court may in its discretion award the amount of the reasonable expenses incurred in making a motion to quash, including reasonable attorney's fees. Based on the genuine dispute and efforts by parties to address the issue, the Court will exercise its discretion and deny the issuance of sanctions.

V. CONCLUSION

Based on the foregoing, the plaintiff's motion to quash the subpoena and request for protective order is DENIED. However, a modification is GRANTED. The subpoena is to be narrowly tailored as to scope and time as follows: paystubs and accommodation-related records from the December 1, 2022 to the present. Although the plaintiff may no longer seek loss of earnings or capacity, the plaintiff's complaint listing loss of earnings and capacity remains as if there were no further amendments. (Plaintiff's Complaint, p. 6). Additionally, the plaintiff seeks general damages for mental and emotional distress. (*Id*) The narrowly modified subpoena relates to relevant information so that parties may assess liability, economic and noneconomic damages, engage in potential settlement discussions, and prepare for trial. The plaintiff has already provided paystubs to the defendant and the narrowly tailored modification to the subpoena adequately addresses privacy concerns. Defendant to prepare the Order.

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