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FILED
SAN MATEO COUNTY

JAN - 9 2026

Clerk of the Superior Court
By *[Signature]*
DEPUTY CLERK

5 In Pro Per

6 SUPERIOR COURT OF THE STATE OF CALIFORNIA
7 COUNTY OF SAN MATEO - SOUTHERN BRANCH

8 DAWN CALVERT,

9 Plaintiff,

10 vs.

11 NEWELL'S COCKTAIL LOUNGE, et al.,

12 Defendants.

: Case No.: 23-CIV-05077

:
: **NOTICE OF MOTION AND MOTION TO**
: **QUASH OR, IN THE ALTERNATIVE, TO**
: **MODIFY DEFENDANT'S SUBPOENAS**
: **FOR PRODUCTION OF RECORDS**

13 : Date: *July 16, 2024*
14 : Time: *2:00 PM*
15 : Judge: *McCannon*
16 : Dept.: *2*

15 TO THE COURT AND ALL PARTIES:

16 PLEASE TAKE NOTICE that on _____, 2026, at _____ a.m./p.m.,

17 or as soon thereafter as the matter may be heard in Department ____ of the above-entitled Court,
18 located at the San Mateo County Superior Court, Plaintiff Dawn Calvert, appearing in propria
19 persona, will and hereby does move the Court for an order:

20 - Quashing the subpoenas for production of medical and insurance records issued

21 by Defendant's counsel to the following third-party entities:

- 22 - Crossroads Home Health & Hospice
- 23 - Kaiser Foundation Health Plan, Inc.
- 24 - City View Post Acute
- 25

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2 **MEMORANDUM OF POINTS AND AUTHORITIES**

3 **I. INTRODUCTION**

4 Defendant has issued a series of subpoenas to multiple third-party medical providers and
5 service entities seeking “any and all” medical and insurance records pertaining to Plaintiff Dawn
6 Calvert. These subpoenas are not narrowly tailored, are facially overbroad, and constitute an
7 impermissible invasion of Plaintiff’s constitutional right to privacy. Rather than advancing this
8 matter toward resolution, Defendant’s discovery tactics have resulted in unnecessary delay,
9 duplication, and harassment of both Plaintiff and non-party medical providers.

10 This case arises from a specific slip-and-fall incident on October 25, 2021, at Defendant
11 Newell’s Cocktail Lounge, which caused Plaintiff severe orthopedic injuries requiring surgery,
12 hospitalization, and extensive follow-up care. Defendant has already been provided with
13 voluminous medical records, including more than 1,300 pages of records from Kaiser
14 Permanente, as well as records from emergency and post-acute care providers. In addition,
15 Plaintiff transmitted a comprehensive demand letter detailing the incident, the nature and extent
16 of her injuries, all treating providers, treatment dates, and claimed damages. Defendant has never
17 identified any meaningful deficiency in those materials.

18 Despite already possessing the information necessary to evaluate Plaintiff’s claims,
19 Defendant now seeks to re-subpoena Plaintiff’s medical providers for the same records—without
20 limitation as to time, subject matter, or relevance. These subpoenas improperly seek access to
21 Plaintiff’s entire medical and insurance history, including records wholly unrelated to the injuries
22 alleged in this action. Discovery is not intended to function as a fishing expedition, nor may it be
23 used to impose duplicative costs on a personal injury plaintiff or to coerce disclosure of
24 constitutionally protected private information.
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1 Allowing these subpoenas to proceed would require Plaintiff to pay again for records
2 already produced, impose unnecessary burdens on third-party medical providers, and reward
3 Defendant's refusal to engage in good-faith discovery and case management. California law does
4 not permit such tactics. The subpoenas should therefore be quashed in their entirety, or, at
5 minimum, strictly limited to records directly related to the injuries at issue and within a
6 reasonable and defined time frame.
7

8 **II. LEGAL STANDARD**

9 Under Code of Civil Procedure section 1987.1, the Court may quash or modify a
10 subpoena if it is unreasonable, oppressive, or seeks information protected by a right of privacy.
11 California courts recognize that medical records are protected by the constitutional right to
12 privacy. ven where a plaintiff places medical condition at issue, the waiver of privacy is limited,
13 not absolute. Discovery requests and subpoenas must therefore be narrowly tailored, directly
14 relevant, and proportional to the needs of the case.

15 **III. THE SUBPOENAS ARE OVERBROAD AND VIOLATE PLAINTIFF'S RIGHT TO** 16 **PRIVACY**

17 Each subpoena issued by Defendant seeks "any and all" medical or insurance records
18 pertaining to Plaintiff Dawn Calvert, without any limitation as to subject matter, type of
19 treatment, time period, or relevance to the claims asserted in this action. Such unrestricted
20 requests are facially overbroad and violate Plaintiff's constitutional right to privacy under Article
21 I, section 1 of the California Constitution.

22 California courts have long recognized that medical information is among the most
23 sensitive and highly protected categories of private information. While a personal injury plaintiff
24 places certain medical conditions at issue by filing suit, that waiver is limited and does not
25

1 extend to the plaintiff's entire medical history. General discovery into a plaintiff's medical
2 history is improper absent a showing of direct relevance and necessity.

3 Here, Plaintiff alleges injuries arising from a single, discrete incident—a slip-and-fall on
4 October 25, 2021—resulting in orthopedic trauma to her left knee and leg, including a tibial
5 plateau fracture requiring surgical intervention and ongoing treatment. Defendant's subpoenas
6 are not limited to records relating to those injuries, that body part, or even that time frame.
7 Instead, they seek unrestricted access to Plaintiff's complete medical and insurance records,
8 including treatment wholly unrelated to the incident at issue.

9 Such subpoenas impermissibly sweep in confidential information concerning unrelated
10 medical conditions, medications, mental health treatment, prior or subsequent illnesses,
11 insurance matters, and other deeply private matters that have no bearing whatsoever on the
12 claims or defenses in this case. This type of "any and all" discovery is precisely the sort of
13 fishing expedition that California courts have repeatedly condemned. Moreover, Defendant has
14 made no particularized showing that such expansive discovery is necessary, nor has Defendant
15 attempted to narrowly tailor the subpoenas to relevant providers, dates, or conditions. The failure
16 to impose reasonable limits is itself grounds to quash.

17 Allowing these subpoenas to stand would sanction a broad and unjustified invasion of
18 Plaintiff's privacy and undermine the constitutional protections afforded to medical information.
19 The subpoenas therefore exceed the scope of permissible discovery and must be quashed in their
20 entirety, or, at minimum, modified to restrict production to records directly related to the injuries
21 alleged, within a reasonable and defined time period.

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23 **IV. DEFENDANT ALREADY POSSESSES THE REQUESTED RECORDS**
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1 Critically, Defendant already has in its possession the very records it now seeks through
2 third-party subpoenas. These subpoenas are therefore unnecessary, duplicative, and improper.
3 Through Plaintiff's prior counsel, Defendant was provided with over 1,300 pages of medical
4 records from Kaiser Permanente, including emergency department records, diagnostic imaging,
5 surgical reports, hospitalization records, post-operative care, and follow-up treatment related to
6 the injuries Plaintiff sustained as a result of the October 25, 2021 incident. These records fully
7 document the nature, extent, and progression of Plaintiff's orthopedic injuries.
8

9 In addition, Plaintiff personally served Defendant with a comprehensive written demand
10 letter, which summarized in detail:

- 11 - All treating medical providers;
- 12 - Dates of treatment;
- 13 - Surgical procedures performed;
- 14 - Hospitalizations and post-acute care;
- 15 - Physical therapy and rehabilitation;
- 16 - Ongoing symptoms and limitations; and
- 17 - The medical expenses and damages claimed.

18 Defendant has never identified any specific gap, omission, or deficiency in the records
19 already produced. Nor has Defendant articulated any legitimate reason why re-subpoenaing the
20 same providers—without limitation—would yield information materially different from what
21 Defendant already possesses. California discovery rules do not permit a party to use subpoenas
22 as a mechanism to re-obtain records already produced, particularly where the purpose appears to
23 be delay, harassment, or imposing additional burdens on an opposing party or non-party medical
24 providers.
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1 Here, Defendant's subpoenas are not designed to obtain new or missing information, but
2 rather to duplicate discovery already completed. Such tactics are improper and weigh heavily in
3 favor of quashing the subpoenas.

4 **V. PLAINTIFF SHOULD NOT BE REQUIRED TO PAY FOR DUPLICATIVE**
5 **DISCOVERY**

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7 Allowing Defendant's subpoenas to proceed would improperly require Plaintiff to bear
8 the financial burden of duplicative discovery, either directly through record-production fees or
9 indirectly through costs imposed on third-party medical providers. This is neither fair nor
10 permitted under California law. Plaintiff has already complied with her discovery obligations and
11 has produced extensive medical documentation sufficient to evaluate her claims. Defendant may
12 not circumvent those disclosures by issuing expansive subpoenas in an effort to independently
13 re-collect the same materials at Plaintiff's expense.

14 California courts consistently recognize that discovery must be proportional, reasonable,
15 and not unduly burdensome. When a party already has the information sought, compelling
16 additional production serves no legitimate purpose and constitutes an abuse of the discovery
17 process. Moreover, subpoenas may not be used as a tool to shift discovery costs to the opposing
18 party or to pressure a plaintiff into acquiescing to overbroad discovery under the guise of
19 "verification" or "completeness." Defendant has ample opportunity to identify any specific
20 missing records through meet-and-confer or narrowly tailored discovery requests. Defendant has
21 chosen not to do so.

22 Accordingly, Plaintiff should not be required to incur further expense or burden for
23 discovery that is cumulative and unnecessary.
24
25

1 **VI. THE SUBPOENAS SHOULD BE QUASHED OR, AT MINIMUM, STRICTLY**
2 **LIMITED**

3 Because Defendant's subpoenas are overbroad, invasive, duplicative, and unnecessary,
4 they should be quashed in their entirety pursuant to Code of Civil Procedure sections 1987.1 and
5 2025.410. Alternatively, should the Court determine that some limited discovery is appropriate,
6 Plaintiff respectfully requests that the subpoenas be substantially modified to:

- 7
- 8 - Limit production strictly to medical records directly related to the injuries alleged
9 in this action, namely orthopedic injuries to Plaintiff's left knee and leg;
 - 10 - Restrict the time frame to a reasonable period surrounding the October 25, 2021
11 incident, excluding unrelated prior or subsequent medical history;
 - 12 - Exclude medical, insurance, billing, and administrative records already produced
13 to Defendant;
 - 14 - Exclude records unrelated to diagnosis, treatment, or causation of the injuries at
15 issue; and
 - 16 - Require Defendant to bear all costs associated with any permitted production.

17 Such limitations are necessary to protect Plaintiff's constitutional right to privacy, prevent
18 duplicative discovery, and ensure that discovery remains fair, proportional, and focused on the
19 actual issues in dispute.

20 **VII. CONCLUSION**

21 WHEREFORE, Plaintiff Dawn Calvert respectfully requests that the Court grant the following
22 relief:

- 23 - Quash in their entirety the subpoenas for production of records issued by Defendant to
24 Crossroads Home Health & Hospice, Kaiser Foundation Health Plan, Inc., City View
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1 Post Acute, and Royal Ambulance; American Medical Response, Inc.; Kaiser
2 Permanente Clinic and Hospital - Northern California; Kaiser Permanente Clinic and
3 Hospital - Northern California - Images; Central Support Services - NCAL Revenue
4 Cycle; 21st Century Home Health Services

- 5 - Alternatively, modify the subpoenas to:
- 6 - Limit production strictly to medical records directly related to the injuries alleged
7 in this action;
 - 8 - Restrict the time frame to a reasonable period surrounding the October 25, 2021
9 incident;
 - 10 - Exclude unrelated medical history, insurance records, and any records already
11 produced to Defendant;
 - 12 - Require Defendant to bear all costs associated with any permitted production;
 - 13 - Issue a protective order prohibiting Defendant from seeking duplicative or overbroad
14 medical discovery without prior Court approval;
 - 15 - Stay compliance with the subpoenas pending resolution of this Motion;
 - 16 - Award Plaintiff such costs and expenses as the Court deems just and proper; and
 - 17 - Grant such other and further relief as the Court deems fair, equitable, and appropriate.
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19 DATED: January 5, 2026

Respectfully Submitted,

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DECLARATION OF DAWN CALVERT

I, Dawn Calvert, declare as follows:

1. I am the Plaintiff in the above-captioned matter, Calvert v. Newell's Cocktail Lounge, Case No. 23-CIV-05077. I have personal knowledge of the facts stated herein and, if called as a witness, I could and would testify competently to them.
2. On October 25, 2021, I sustained severe injuries in a slip-and-fall accident at Defendant Newell's Cocktail Lounge in San Bruno, California. My injuries required multiple surgeries, extensive hospitalization, and long-term rehabilitation, as detailed in my demand letter dated June 1, 2025.
3. Prior to the issuance of the subpoenas at issue, I, through my previous attorney, produced over 1,300 pages of medical records from Kaiser Permanente, including surgical records, hospitalization records, and follow-up care.
4. In addition to the Kaiser records, I personally provided Defendant's counsel with a detailed demand letter summarizing:
 - a. All of my treating medical providers;
 - b. The nature of my injuries;
 - c. Dates of treatment;
 - d. Surgical procedures performed; and
 - e. Associated medical costs.
5. I received subpoenas directed to Crossroads Home Health & Hospice, Kaiser Foundation Health Plan, Inc., City View Post Acute, Royal Ambulance, American Medical Response, Inc., Kaiser Permanente Clinic and Hospital - Northern California, Kaiser Permanente Clinic and Hospital - Northern California - Images, Central Support Services - NCAL

1 Revenue Cycle, 21st Century Home Health Services seeking "any and all" medical or
2 insurance records pertaining to me, without limitation.

3
4 6. The subpoenas seek records that are overbroad and irrelevant to this action, as they
5 request my entire medical history rather than only those records directly related to my
6 slip-and-fall injuries.

7 7. The subpoenas are duplicative, as Defendant already possesses:

8 a. My Kaiser Permanente medical records; and

9 b. A detailed summary of all treatments and providers in my demand letter.

10 8. Requiring the production of these records again would unnecessarily burden me and
11 third-party providers. I am concerned that such duplicative requests will result in
12 additional costs, administrative burdens, and potential invasion of my privacy, without
13 advancing the resolution of this case.

14 9. I have made diligent efforts to comply with discovery obligations, providing all relevant
15 medical documentation to Defendant and summarizing the same information in my
16 demand letter.

17 10. I respectfully request that the Court quash the subpoenas in their entirety. Alternatively, I
18 request that the subpoenas be modified to limit production to records directly related to
19 the injuries alleged in this action, exclude unrelated medical history, and assign all
20 associated costs to Defendant.

21 I declare under penalty of perjury under the laws of the State of California that the foregoing is
22 true and correct.

23 Executed on 1/5, 2026 at REDWOOD CITY, California.

24 
25 Dawn Calvert