

**UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA**

Palmer v. Nippon Yusen Kabushiki Kaisha (NYK Line)

No. 24-cv-00309-DMR, United States District Court for the Northern District of California (July 22, 2025)

OPINION

Palmer v. Nippon Yusen Kabushiki Kaisha (NYK Line)

PER CURIAM.

1 2 3

4 UNITED STATES DISTRICT COURT

5 NORTHERN DISTRICT OF CALIFORNIA

6 7 WILLIAM PALMER, Case No. 24-cv-00309-DMR 8 Plaintiff,

ORDER DENYING JOINT

9 v. DISCOVERY LETTER WITHOUT

PREJUDICE

10 NIPPON YUSEN KABUSHIKI KAISHA

(NYK LINE), Re: Dkt. No. 41 11 Defendant. 12 13 This is a maritime personal injury case in which Plaintiff William Palmer fell through an 14 open hatch on a ship owned by Defendant Nippon Yusen Kabushiki Kaisha (“NYK Line”). At the 15 time of the accident, Plaintiff was employed by third party Pacific Crane Maintenance Company, 16 LLC (“PCMC”). PCMC completed its own investigation of the accident. NYK Line seeks 17 discovery from PCMC about that accident investigation. 18 On July 17, 2025, NYK Line and PCMC filed a joint discovery letter in which NYK Line 19 moves to compel PCMC to re-produce a 30(b)(6) witness to testify on 14 noticed topics. [Docket

20 No. 41 (JDL).] NYK Line argues that PCMC’s 30(b)(6) witness, Scott Baker, was not adequately

21 prepared before the deposition. PCMC asserts that Baker was fully prepared to the extent required 22 under Federal Rule of Civil Procedure 30(b)(6). 23 NYK Line and PCMC fail to sufficiently address key issues in the JDL. Therefore, the 24 court denies the JDL without prejudice and orders NYK Line and PCMC to meet and confer fully. 25 If they still cannot resolve their dispute, they shall file a new, standalone joint discovery letter 26 which addresses the topics described below.

27 I. LEGAL STANDARD

1 pertinent part: 2 In its notice or subpoena, a party . . . must describe with reasonable particularity the matters for examination. The named organization 3 must designate one or more officers . . . who consent to testify on its behalf; and it may set out the matters on which each person

designated 4 will testify. Before or promptly after the notice or subpoena is served, the serving party and the organization must confer in good faith about 5 the matters for examination. . . . The persons designated must testify about information known or reasonably available to the organization. 6 Fed. R. Civ. P. 30(b)(6). “The testimony of a Rule 30(b)(6) designee ‘represents the knowledge of 7 the corporation, not of the individual deponents.’” *Great Am. Ins. Co. of New York v. Vegas* 8 *Const. Co.*, 251 F.R.D. 534, 538 (D. Nev. 2008) (quoting *U.S. v. Taylor*, 166 F.R.D. 356, 361 9 (M.D.N.C.), *aff’d*, 166 F.R.D. 367 (M.D.N.C. 1996)). A Rule 30(b)(6) deponent’s role is “to 10 provide the entity’s interpretation of events and documents.” *Kelly v. Provident Life & Acc. Ins.* 11 *Co.*, No. 04CV807-AJB BGS, 2011 WL 2448276 (S.D. Cal. June 20, 2011) (citation omitted). 12 “Rule 30(b)(6) imposes burdens on both the discovering party and the designating party.” 13 *Great American*, 251 F.R.D. at 538. On the one hand, the party seeking discovery is required to 14 describe “with reasonable particularity the matters on which examination is requested.” Fed. R. 15 Civ. P. 30(b)(6). On the other hand, the responding organization “is required to educate an 16 appropriate Rule 30(b)(6) designee to provide knowledgeable answers reasonably available to the 17 corporation, which includes information ascertainable from claims files, documents produced in 18 this case, information from past employees, witness testimony and exhibits, or any other sources 19 available to the corporation.” *Kelly*, 2011 WL 2448276, at *5; see also *Bowoto v. ChevronTexaco* 20 *Corp.*, No. C 99-02506 SI, 2006 WL 294799, at *1 (N.D. Cal. Feb. 7, 2006) (a corporation “has a 21 duty to educate its witnesses so they are prepared to fully answer the questions posed at the 22 deposition”). Both parties “must confer in good faith” prior to the deposition to determine the 23 deposition’s appropriate scope. See Fed. R. Civ. P. 30(b)(6). If it “becomes apparent during the 24 deposition that the designee produced is unable to respond to relevant areas of inquiry, the 25 responding party has a duty to designate an additional knowledgeable deponent.” *Great* 26 *American*, 251 F.R.D. at 540. 27

II. SUPPLEMENTAL BRIEFING REQUIRED

1 A. Andrew Lorenzana Files 2 NYK Line’s main complaint is that Baker failed to review files belonging to a PCMC 3 employee named Andrew Lorenzana before the deposition. JDL 2. NYK Line alludes to its 4 individual deposition of Lorenzana, in which Lorenzana stated that his memory of events was 5 limited because he had been denied access to his files by PCMC and had been ordered to return his 6 work computer to PCMC a week before his deposition. *Id.* However, NYK Line is not moving to 7 reopen its deposition of Lorenzana. It is moving to have PCMC reproduce its 30(b)(6) witness. 8 The record is entirely unclear about whether Lorenzana ever possessed any files relevant to 9 the noticed deposition topics. NYK Line asserts that Lorenzana was “the PCMC employee who 10 investigated the accident,” which would suggest that Lorenzana possessed files, at least at some 11 point, that were related to the investigation. JDL 2. Meanwhile, PCMC asserts that the only 12 PCMC employees who conducted an investigation were Jerry Gatine, Davis Tsen, and Brian Rau, 13 and that Lorenzana “did not investigate the

accident.” Id. at 5. PCMC further asserts that Baker 14 did review the relevant investigation documents. Id. Neither party presents any evidence or 15 explanation for their conflicting assertions about Lorenzana’s role in the investigation and what 16 files he possessed. As the moving party, NYK Line bears the burden of establishing that the 17 requested discovery is relevant. See *Lofton v. Verizon Wireless (VAW) LLC*, 308 F.R.D. 276, 281 18 (N.D. Cal. 2015). NYK Line must explain, supported by evidence, why it believes Lorenzana had 19 relevant files that Baker did not review. PCMC may present counterevidence. 20 Even if Lorenzana possessed relevant files, NYK Line’s motion does not explain how they 21 relate to the various noticed topics. Some topics appear to have little to do with Lorenzana—for 22 example, Topic Nos. 3 and 4 are about the “employment records” for Plaintiff and Plaintiff’s 23 coworker at the time of the accident. NYK Line never suggests that Lorenzana possessed or had 24 knowledge of any of these employment records. Even if Lorenzana had files relevant to one topic, 25 a 30(b)(6) witness’s failure to adequately prepare for one noticed topic does not give NYK Line 26 carte blanche permission to reopen the deposition on all noticed topics. NYK Line must explain 27 which topics required Baker to review Lorenzana’s files to prepare for the deposition, and why. B. Other Grounds for the Motion to Compel 1 NYK Line’s only other argument is a vague assertion that Baker “had no first-hand 2 knowledge of the listed topics, and the only preparation he did for the deposition was to review 3 PCMC’s prior, redacted, document production.” JDL 1. It is not clear why this would be 4 inadequate preparation. A 30(b)(6) witness is not required to have first-hand knowledge. 5 Corporate witnesses commonly prepare for deposition by reviewing prior document production. 6 NYK Line fails to identify any particular question that Baker was not able to answer but that he 7 would have answered if he had been reasonably prepared. NYK Line does not address any of 8 PCMC’s specific objections, such as PCMC’s argument that many of the documents NYK Line 9 seeks information about are not under PCMC’s possession, custody or control; that Topic Nos. 9- 10 10 cannot be answered because no witnesses to the accident exist; or that Topic No. 12 falls under 11 the attorney-client privilege. 12 NYK Line’s motion to compel is far too vague. To the extent that its motion is based on 13 something other than the failure to review Lorenzana’s files, NYK Line must specifically identify 14 each noticed topic and why Baker was inadequately prepared to testify about it, addressing any of 15 PCMC’s counterarguments. 16

III. CONCLUSION

17 The JDL is denied without prejudice. NYK Line and PCMC shall meet and confer on the 18 above issues. If they cannot resolve their dispute, they shall file a new, five-page joint discovery 19 letter by August 5, 2025. The letter shall attach competent evidence, such as a sworn declaration, 20 supporting the parties’ assertions. The parties may attach more than one exhibit. The letter must 21 stand on its own; it may not refer to or incorporate any other document. 22 23

24 IT IS SO ORDERED. 25 Dated: July 22, 2025 26

27 Donna M. Ryu

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