

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Dean v. Zhang

Dean · No. 24-cv-00413-RSH-JLB · Decided August 13, 2025

SUMMARY

The United States District Court for the Southern District of California denied Plaintiff Jermaine Michael Dean’s motion to compel discovery in his 42 U.S.C. § 1983 action concerning allegedly delayed surgery and inadequate medical care. The court held that requests for complaints and grievances concerning Defendant Dr. R.Y. Zhang were untimely, overbroad, insufficiently relevant, and implicated third-party privacy interests. The court also denied a request concerning Defendant’s retained expert because Federal Rule of Civil Procedure 34 applies to party discovery and expert discovery must proceed through deposition.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Jill L. Burkhardt
JURISDICTION	United States District Court for the Southern District of California
DECIDED	August 13, 2025
DOCKET	24-cv-00413-RSH-JLB
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff, a state prisoner proceeding pro se in a 42 U.S.C. § 1983 action alleging deliberate indifference to serious medical needs, moved to compel discovery from Defendant and Defendant's retained expert. The magistrate judge denied the motion.
STANDARD OF REVIEW	Discovery rulings and determinations of relevance and proportionality are committed to the district court's broad discretion. On a motion to compel, the moving party bears the burden of demonstrating relevance, proportionality, and compliance with Rule 26; the resisting party must support its objections.
PRECEDENTIAL VALUE	unpublished

TOPICS

discovery dispute

prisoners rights

section 1983

medical records privacy

civil procedure

PRACTICE AREAS

civil procedure

prisoner civil rights

discovery

constitutional privacy

medical care

QUESTIONS PRESENTED

1. Whether Plaintiff's motion to compel was timely under the scheduling order and the magistrate judge's chambers rules.
2. Whether broad requests for complaints, grievances, and investigative records concerning Defendant's treatment of other inmates were relevant and proportional to Plaintiff's deliberate-indifference claim.
3. Whether the privacy interests of third-party inmates outweighed the minimal potential relevance of their medical complaints and records.
4. Whether Plaintiff could use a Rule 34 request to obtain personnel or complaint records concerning Defendant's nonparty testifying expert.

HOLDINGS

1. The discovery dispute was untimely because Plaintiff served discovery after the scheduling-order deadline and did not timely raise the dispute after Defendant's objections.
2. Plaintiff was not entitled to compel production of broad requests for any and all complaints, grievances, and investigative materials concerning Defendant's alleged mistreatment of inmates because he failed to show that the requests were relevant and proportional to his particular deliberate-indifference claim.
3. Even assuming minimal potential relevance, the requested complaints and grievances concerning other inmates could not be compelled because the need for the information did not outweigh the third-party inmates' constitutionally protected medical privacy interests.
4. The court did not base its ruling on the official-information privilege because Defendant had not shown that he served a privilege log or submitted the requisite declaration permitting the court to assess the privilege.
5. Plaintiff could not compel Defendant under Rule 34 to produce complaints or personnel records concerning Dr. Feinberg, a nonparty testifying expert; discovery concerning the expert had to proceed through deposition under Rule 26(b)(4)(A).

KEY QUOTATIONS

“Plaintiff therefore has not established that the discovery he requests is relevant and proportional to the needs of the case, rather than a mere fishing expedition.” (III.B.1.a)

“When an expert has been retained as a testifying witness, as is the case with Dr. Feinberg, the party’s discovery must be conducted through deposition.” (III.B.2)

FACTUAL BACKGROUND

Plaintiff, a state prisoner, alleged that Defendant Dr. R.Y. Zhang delayed surgery for Plaintiff's ruptured left biceps tendon by referring him through an institutional surgical-approval process rather than sending him for emergency surgery. Plaintiff claimed the delay caused improper healing and was motivated by racial bias or financial incentives. In discovery, Plaintiff sought broad records concerning complaints and grievances against Zhang and against Zhang's retained expert, Dr. Bennett Feinberg, including records involving other inmates.

PROCEDURAL HISTORY

Plaintiff filed a civil rights complaint and later a second amended complaint asserting that Defendant delayed surgery for Plaintiff's ruptured biceps tendon because of racial bias or financial incentives. The claim survived screening, Defendant answered, discovery deadlines were entered, and Plaintiff served untimely requests for production concerning complaints and grievances involving Defendant and Defendant's expert. After an unsuccessful meet and confer, Plaintiff moved to compel. The court denied the motion on timeliness grounds and, exercising discretion to address the merits, also denied relief based on lack of relevance, proportionality, third-party privacy, and the improper use of Rule 34 to seek documents from a nonparty expert.

DISPOSITION

other

CASES CITED

- BlackBerry Ltd. v. Facebook, Inc., No. CV 18-1844-GW (KSX), 2019 WL 4544425, at *6 (C.D. Cal. Aug. 19, 2019)
- Surfivor Media, Inc. v. Survivor Prods., 406 F.3d 625, 635 (9th Cir. 2005)
- Hallett v. Morgan, 296 F.3d 732, 751 (9th Cir. 2002)
- Shared P'ship v. Meta Platforms, Inc., Case No. 22-cv-02366-RS (RMI), 2023 WL 2526645, at *3 (N.D. Cal. Mar. 14, 2023)
- Weinstein v. Catapult Grp., Inc., No. 21-CV-05175-PJH, 2022 WL 4548798, at *1 (N.D. Cal. Sept. 29, 2022)
- Oakes v. Halvorsen Marine Ltd., 179 F.R.D. 281, 283 (C.D. Cal. 1998)
- Jett v. Penner, 439 F.3d 1091, 1096 (9th Cir. 2006)
- McGuckin v. Smith, 974 F.2d 1050, 1059–60 (9th Cir. 1991)
- WMX Techs., Inc. v. Miller, 104 F.3d 1133 (9th Cir. 1997) (en banc)
- Brook v. Carey, 352 F. App'x 184, 185–86 (9th Cir. 2009)
- Valenzuela v. Smith, No. S 04-0900 FCD DAD P, 2006 WL 403842, at *2 n.1 (E.D. Cal. Feb. 16, 2006), adopted by 2006 WL 736765 (E.D. Cal. Mar. 22, 2006), aff'd, 249 F. App'x 528 (9th Cir. 2007)
- Bovarie v. Schwarzenegger, No. 08CV1661 LAB NLS, 2011 WL 719206, at *3 (S.D. Cal. Feb. 22, 2011)
- George v. Sonoma Cnty. Sheriff's Dep't, 732 F. Supp. 2d 922, 937 (N.D. Cal. 2010)
- Norman-Bloodsaw v. Lawrence Berkeley Lab., 135 F.3d 1260, 1269 (9th Cir. 1998)
- Nelson v. Nat'l Aeronautics & Space Admin., 530 F.3d 865, 877 (9th Cir. 2008), rev'd as to other matters, 562 U.S. 134 (2011)

- Tucson Woman's Clinic v. Eden, 379 F.3d 531, 551 (9th Cir. 2004), abrogated on other grounds by Dobbs v. Jackson Women's Health Org., 597 U.S. 215 (2022)
- Dobbs v. Jackson Women's Health Org., 597 U.S. 215 (2022)
- Turner v. Safley, 482 U.S. 78, 95 (1987)
- Doe v. Beard, 63 F. Supp. 3d 1159, 1166–67 (C.D. Cal. 2014)
- Harris v. Kyle, No. 1:19-cv-0462-DAD-EPG-PC, 2021 WL 195477, at *2 (E.D. Cal. Jan. 20, 2021)
- Allen v. Woodford, No. CV-F-05-1104-OWW-LJO, 2007 WL 309485, at *5 (E.D. Cal. Jan. 30, 2007)
- Soto v. City of Concord, 162 F.R.D. 603, 613, 616 (N.D. Cal. 1995)
- Seaton v. Mayberg, 610 F.3d 530, 534 (9th Cir. 2010)
- Sanchez v. City of Santa Ana, 936 F.2d 1027, 1033–34 (9th Cir. 1990), as amended on denial of reh'g (Feb. 27, 1991), as amended on denial of reh'g (May 24, 1991)
- Lambert v. Weller, No. C20-1558-JLR-MAT, 2021 WL 1393066, at *3 (W.D. Wash. Mar. 16, 2021), adopted by 2021 WL 1387661 (W.D. Wash. Apr. 12, 2021)
- Ransom v. Gray, No. 07-CV-02340-IEG (WMC), 2009 WL 5184131, at *4 (S.D. Cal. Dec. 21, 2009), aff'd, 473 F. App'x 741 (9th Cir. 2012)

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