UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA

Blue Line Foodservice Distribution, Inc. v. John Cathcart, et al.

Blue Line · No. 24-cv-1250-W-MMP · Decided December 4, 2025

SUMMARY

The United States District Court for the Southern District of California denied Defendants John Cathcart and Mercator Capital Advisors, Inc.'s motion to quash subpoenas served on Bank of America and Charles Schwab. The Court held that anticipated defenses did not justify delaying discovery and that the requested financial records were relevant and proportional to Plaintiff's fraudulent-transfer and alter-ego claims. The Court narrowed the subpoenas to records from April 20, 2016, to the present.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Michelle M. Pettit
JURISDICTION	United States District Court for the Southern District of California
DECIDED	December 4, 2025
DOCKET	24-cv-1250-W-MMP
DISPOSITION	other
PROCEDURAL POSTURE	Defendants moved under Federal Rule of Civil Procedure 45 to quash subpoenas served on nonparties Bank of America, N.A., and Charles Schwab & Company. The court denied the motion and narrowed the subpoena requests.
STANDARD OF REVIEW	On a motion to quash, the movant bears the burden of persuasion, while the party issuing the subpoena must demonstrate relevance. Discovery must fall within Rule 26(b)(1)'s scope and must not impose an undue burden under Rule 45.
PRECEDENTIAL VALUE	unpublished
PARTIES	John Cathcart, Mercator Capital Advisors, Inc. v. Blue Line Foodservice Distribution, Inc.

TOPICS

discovery dispute · civil procedure · commercial litigation · asset protection · corporate veil piercing

PRACTICE AREAS

civil procedure · commercial litigation · asset protection · corporate law

QUESTIONS PRESENTED

1. Whether anticipated defenses, including judicial estoppel and the asserted failure of the alter ego claim, justified staying discovery or quashing the subpoenas.
2. Whether the subpoenas sought relevant and proportional discovery under Federal Rules of Civil Procedure 26(b)(1) and 45.
3. Whether the subpoenas imposed an undue burden or improperly invaded privacy interests.
4. What temporal and substantive limitations were necessary to make the subpoenas relevant and proportional.

HOLDINGS

1. Anticipated defenses do not justify quashing or staying discovery where no dispositive motion has been filed and the defenses' merits may require additional discovery.
2. Records concerning transfers and payments among Cathcart, Mercator, Nerys Logistics, Com Nerys, and Nery's USA were relevant and proportional to Blue Line's fraudulent-transfer and alter-ego claims.
3. The subpoenas were overbroad as written from January 1, 2012 to the present and were properly narrowed to records from April 20, 2016 to the present.
4. The subpoenas could not reach Cathcart's personal transactions unrelated to Mercator, Nerys Logistics, Com Nerys, or Nery's USA.
5. The privacy and undue-burden objections did not warrant quashing the subpoenas because a protective order adequately protected privacy interests and the likely benefit of the relevant financial discovery outweighed the burden.

KEY QUOTATIONS

> *"the Court declines Defendants' attempt to shoehorn a determination on the merits of their defenses through a motion to quash a third-party subpoena."* (at 9)

> *"Cathcart's personal transactions unrelated to the subject business entities are not relevant or proportional."* (at 15)

> *"DENIES Defendants' motion to quash, NARROWS the BofA and Schwab subpoenas to April 20, 2016 to present"* (at 18)

FACTUAL BACKGROUND

Blue Line obtained a $6,342,402.63 stipulated arbitration award against Com Nerys and Nery's USA, followed by a 2020 default judgment. Blue Line alleges that John Cathcart, who controlled Nery's USA and Mercator, diverted assets among Nery's USA, Com Nerys, Nerys Logistics, Mercator, and himself to evade collection of the judgment. The subpoenas sought financial records and transfer information from Bank of America and

Charles Schwab concerning those entities and Cathcart. The court found the requested records relevant to the fraudulent-transfer and alter-ego claims but limited the temporal and substantive scope of the requests.

PROCEDURAL HISTORY

Blue Line obtained a stipulated arbitration award and a 2020 default judgment against Com Nerys and Nery's USA in the Eastern District of Michigan. After unsuccessful collection efforts, Blue Line filed this California action alleging fraudulent transfer, common-law fraudulent conveyance, and alter ego liability against Cathcart and related entities. During discovery, defendants moved to quash revised subpoenas served on Bank of America and Charles Schwab, asserting anticipated dispositive defenses, lack of relevance and proportionality, undue burden, and privacy concerns.

DISPOSITION

other

CASES CITED

- In re Subpoena of DJO, LLC, 295 F.R.D. 494, 497 (S.D. Cal. 2014)
- Chevron Corp. v. Donziger, No. 12-mc-80237-CRB-NC, 2013 WL 4536808, at *4 (N.D. Cal. Aug. 22, 2013)
- Akkawi v. Sadr, No. 20-cv-1034-MCE-AC, 2022 WL 17722605, at *2 (E.D. Cal. Dec. 15, 2022)
- Amini Innovation Corp. v. McFerran Home Furnishings, Inc., 300 F.R.D. 406, 409 (C.D. Cal. 2014)
- Mount Hope Church v. Bash Back!, 705 F.3d 418, 427, 429 (9th Cir. 2012)
- Mattel, Inc. v. Walking Mountain Productions, 353 F.3d 792, 813-14 (9th Cir. 2003)
- Moon v. SCP Pool Corp., 232 F.R.D. 633, 637 (C.D. Cal. 2005)
- Orchid Biosciences, Inc. v. St. Louis Univ., 198 F.R.D. 670, 672 (S.D. Cal. 2001)
- Mlejnecky v. Olympus Imaging America, Inc., No. 10-cv-02630-JAM-KJN, 2011 WL 489743, at *6 (E.D. Cal. Feb. 7, 2011)
- Malibu Media, LLC v. Does 1-25, No. 12-cv-0362-LAB-DHB, 2012 WL 2367555, at *2-3 (S.D. Cal. June 21, 2012)
- Third Degree Films, Inc. v. Does 1-178, No. C 12-3858-EMC-MEJ, 2012 WL 12925674, at *3 (N.D. Cal. Dec. 6, 2012)
- Malibu Media, LLC v. Does 1-59, No. 12-cv-0888-AWI-DLB, 2012 WL 4465359, at *3 (E.D. Cal. Sept. 25, 2012)
- Dominguez v. Corporation of Gonzaga University, No. 17-cv-00286-SAB, 2018 WL 3338181, at *1 (E.D. Wash. Apr. 19, 2018)
- Marin v. San Diego State University, No. 21-cv-1445-JO-MMP, 2024 WL 2061727, at *2 (S.D. Cal. Apr. 19, 2024)
- In re Bofl Holding, Inc. Securities Litigation, No. 15-cv-2324-GPC-KSC, 2021 WL 4460751, at *3 (S.D. Cal. Sept. 29, 2021)
- Starline Windows Inc. v. Quanex Building Products Corp., No. 15-cv-1282-L-WVG, 2016 WL 4485568, at *5 (S.D. Cal. Aug. 19, 2016)

- Laub v. Horbaczewski, 331 F.R.D. 516, 521 (C.D. Cal. 2019)
- Oakes v. Halvorsen Marine Ltd., 179 F.R.D. 281, 283 (C.D. Cal. 1998)
- Goodin v. City of Glendora, No. 17-cv-3567-FMO-PLA, 2017 WL 10560490, at *5 (C.D. Cal. Dec. 13, 2017)
- Viacom International, Inc. v. YouTube, Inc., No. 08-cv-80129-SI, 2008 WL 3876142, at *3 (N.D. Cal. Aug. 19, 2008)
- Cobb v. Superior Court, 99 Cal. App. 3d 543, 552 (1979)
- In re Heritage Bond Litigation, No. 02-cv-1475-DT-RCX, 2004 WL 1970058, at *12 n.12 (C.D. Cal. July 23, 2004)
- Valley Bank of Nevada v. Superior Court, 542 P.2d 977, 980 (Cal. 1975)

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