

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

O'Brien v. Garza

O'Brien · No. 2:22-cv-1730-TLN-JDP (P) · Decided March 6, 2025

SUMMARY

The United States District Court for the Eastern District of California grants plaintiff’s motion to modify the scheduling order and motion to subpoena non-party documents, while denying his motion to compel. The court finds good cause to extend discovery deadlines, authorizes subpoenas for documents held by California Medical Facility offices, and concludes that the requested reports, personnel records, and certain text messages are protected by official-information, privacy, attorney-client, or common-interest protections.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Jeremy D. Peterson
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	March 6, 2025
DOCKET	2:22-cv-1730-TLN-JDP (P)
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved to modify the scheduling order, subpoena non-party documents, and compel discovery in an ongoing prisoner civil-rights action. The court granted the first two motions and denied the motion to compel.
STANDARD OF REVIEW	A scheduling order may be modified only for good cause and with the judge's consent, with the inquiry focused on the diligence of the party seeking modification. For discovery disputes, the requesting party bears the initial burden of showing relevance, while the resisting party bears the burden of clarifying, explaining, and supporting objections and establishing privilege.
PRECEDENTIAL VALUE	unpublished
PARTIES	Kory T. O'Brien v. R. Garza, Baker

TOPICS

discovery dispute

attorney client privilege

civil procedure

evidence

PRACTICE AREAS

civil procedure

prisoner civil rights

discovery

evidence

QUESTIONS PRESENTED

1. Whether plaintiff established good cause to modify the scheduling order and extend the discovery and dispositive-motion deadlines.
2. Whether plaintiff could obtain subpoenas for relevant non-party documents that defendants were unable to procure.
3. Whether plaintiff's motion to compel should be denied as untimely after the discovery-motion deadline was subsequently extended.
4. Whether defendants established that investigative reports and personnel records were protected from disclosure under the official-information privilege, privacy interests, and related protections.
5. Whether defendants established that withheld text messages were protected by attorney-client privilege and the common-interest doctrine.

HOLDINGS

1. Good cause existed to modify the scheduling order because plaintiff appeared to have acted diligently and could not reasonably meet the existing deadlines under the circumstances presented.
2. Plaintiff was entitled to issuance of subpoenas for relevant documents held by non-parties because he had attempted unsuccessfully to obtain the information from defendants and the record did not establish an undue burden or expense.
3. The motion to compel would not be denied as untimely because the court granted plaintiff's motion to modify the scheduling order and extended the deadline for discovery motions.
4. Defendants satisfied their burden to show that the requested Confidential Fact Gathering Reports, Allegation Inquiries, and personnel records were protected from compelled disclosure.
5. Defendants established that the withheld text messages implicated attorney-client privilege and the common-interest doctrine, so the court would not compel their production.

KEY QUOTATIONS

“A court’s scheduling order “may be modified only for good cause and with the judge’s consent.”” (at 2)

“The good cause inquiry focuses on the diligence of the party seeking the modification.” (at 2)

“Courts must ensure that the party serving the subpoena has taken reasonable steps to avoid imposing an undue burden or expense on the person or entity to be served with the subpoena.” (at 7)

“The party who resists discovery has the burden to show that discovery should not be allowed, and has the burden of clarifying, explaining, and supporting his objections.” (at 10)

“Because it impedes full and free discovery of the truth, the attorney-client privilege is strictly construed.” (at 10)

FACTUAL BACKGROUND

Plaintiff, a prisoner asserting constitutional and state-law claims against correctional officers at California Medical Facility, sought additional time for discovery after experiencing crisis bedding, an impending rotator-cuff surgery, and delayed receipt of defendants' discovery responses. He also sought documents allegedly held by the facility's litigation coordinator or office of grievances after defendants could not obtain them. Defendants withheld investigative reports, personnel-related materials, and text messages based on official-information, deliberative-process, privacy, attorney-client, and common-interest grounds, supported by privilege logs and a declaration from the facility's litigation coordinator.

PROCEDURAL HISTORY

Plaintiff filed the action in September 2022 and later amended his complaint. The court screened the amended complaint and found cognizable First and Eighth Amendment claims and state-law tort claims against Garza and Baker. After defendants answered, the court entered an amended scheduling order. Plaintiff then filed the three motions resolved by this order.

DISPOSITION

other

CASES CITED

- Johnson v. Mammoth Recreations, Inc., 975 F.2d 604, 608 (9th Cir. 1992)
- Kelly v. City of San Jose, 114 F.R.D. 653, 670 (N.D. Cal. 1987)
- Blemaster v. Sabo, No. 2:16-CV-04557 JWS, 2017 WL 4843241, at *1 (D. Ariz. Oct. 25, 2017)
- DIRECTV, Inc. v. Trone, 209 F.R.D. 455, 458 (C.D. Cal. 2002)
- United States v. Sanmina Corp., 968 F.3d 1107, 1116 (9th Cir. 2020)
- Upjohn Co. v. United States, 449 U.S. 383, 389-90 (1981)
- United States v. Ruehle, 583 F.3d 600, 607-09 (9th Cir. 2009)
- In re Grand Jury Investigation, 974 F.2d 1068, 1071 n.2 (9th Cir. 1992)
- Nidec Corp. v. Victor Co. of Japan, 249 F.R.D. 575, 578 (N.D. Cal. 2007)