TENTATIVE RULINGS
LAW & MOTION CALENDAR
Wednesday, July 1, 2026 3:00 pm
Courtroom 19 –Hon. Oscar A. Pardo
3055 Cleveland Avenue, Santa Rosa

The tentative rulings will become the ruling of the Court unless a party desires to be heard. If you desire to appear and present oral argument, **YOU MUST NOTIFY** the Judge's Judicial Assistant by telephone at **(707) 521-6602**, and all other opposing parties of your intent to appear, **and whether that appearance is in person or via Zoom**, no later 4:00 p.m. the court day immediately preceding the day of the hearing.

If the tentative ruling is accepted, no appearance is necessary unless otherwise indicated.

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1. 24CV06419, Benedict v. The Ezralow Company, LLC

This matter is on for summary adjudication of the first cause of action. Plaintiff has filed a motion for summary adjudication identical to the instant motion. No opposition was received, and given that the second noticed motion is on calendar for September 4, the Court presumes that the re-filing was not an idle act. The Ex Parte application previously received by the Court made reference to an issue of service on the motion calendared for the instant date. Given that the motions appear identical in nature, the Court drops the instant hearing in favor of the second calendared motion.

2. 24CV07555, Stewart v. Fay Servicing, LLC

Plaintiffs Kara Michelle Stewart and Christopher Charles Stewart ("Plaintiff") filed the currently operative first amended complaint (the "FAC") in this action against defendants Fay Servicing, LLC ("Fay"), U.S. Bank Trust National Association, as trustee of the LSF9 Master Participation Trust ("US Bank", together with Fay, "Defendants"), and Does 1-20, for multiple alleged causes of action arising out of a mortgage transaction.

This matter is on calendar for the motion by Plaintiffs for leave to supplement the Complaint (the "FAC") pursuant to Cal. Code Civ. Proc. ("CCP") § 464.

I. Governing Law

A plaintiff may, on a motion, be allowed to make a supplemental complaint alleging facts material to the case occurring after the former complaint or answer. CCP § 464.

> The office of a supplemental complaint is to plead facts material to plaintiff's cause of action accruing after the filing of the complaint. Code Civ.Proc. § 464. It is not proper to set forth a new and independent cause of action, but only such matters as may be consistent with and in aid of the case made by the original complaint. "It is no objection to a supplemental complaint that different or additional relief is asked for. Indeed, the object of the supplemental complaint is to obtain additional or different relief without resort to a new trial." *Jacob v. Lorenz*, 98 Cal. 332, 33 Pac. 119; *Baker v. Bartol*, 6 Cal. 483. *In Miller v. Cook*, 135 Ill. 190, 25 N.E. 756, 10 L.R.A. 292, it is said: "If the original bill is sufficient for one kind of relief, and facts afterward occur which entitle the complainant to other and more extensive relief, he may have such relief by setting out the new matter in a supplemental bill."

Melvin v. E.B. & A.L. Stone Co. (1908) 7 Cal.App. 324, 326.

"(T)he issues in a case refer to the beginning of an action, and that matters occurring pendente lite cannot be put in evidence and are not adjudicated by the judgment unless brought before the court by a supplemental pleading." *Grand Union Hotel v. Industrial Acc. Commission* (1924) 67 Cal.App. 123, 127. It is not proper for supplemental pleadings to allege new causes of action or defenses, rather the new facts must "supplement" the already alleged causes of action. *Flood v. Simpson* (1975) 45 Cal.App.3d 644, 647. "It is the policy of law to permit generally the filing of supplemental pleadings (Citation). While it is a general rule that an application for permission to file a supplemental pleading is addressed to the court's discretion (Citation), the discretion referred to is a legal discretion subject to review. (Citation.)" *Louie Queriolo Trucking, Inc. v. Superior Court of Kern County* (1967) 252 Cal.App.2d 194, 197–198.

"A complaint and a supplemental complaint are considered as separate pleadings…" *Stack v. Welder* (1935) 3 Cal.2d 71, 76.

> Appellant fails to note the distinction between a complaint (or one as amended) and a supplemental complaint. They are to be considered as separate pleadings, the office of the supplemental complaint being merely to bring to the notice of the court, and the opposite party, matters which occurred after the commencement of the action, and which do, or may, affect the rights asserted, and the rule asked in the action, as originally instituted.

Conlin v. Southern Pac. R. Co. (1919) 40 Cal.App. 733, 741.

In contrast "(a)n 'amended' complaint supersedes all prior complaints (*Citation*), and the original complaint ceases to have any effect either as a pleading or as a basis for judgment (*Citation*)." *Malear v. State of California* (2023) 89 Cal.App.5th 213, 221 (internal citations and quotations omitted).

II. Motion

Plaintiffs have filed a motion for leave to file a supplemental complaint. Defendants have filed no opposition. Plaintiffs have filed a proposed supplemental complaint with their motion reflecting significant changes. The Court previously continued the matter for Plaintiffs to file a supplemental complaint conforming to the purpose of such a pleading by June 18, 2026, as the prior proposed supplemental complaint exceeded the scope into amendment.

Plaintiff has filed the required proposed supplemental complaint, which appears to only reflect those facts which occurred after the beginning of this suit. There is no opposition by Defendants. Plaintiffs' motion is GRANTED. Plaintiffs shall file their First Supplemental Complaint within 5 days of notice of this order.

III. Conclusion

Plaintiffs' motion is **GRANTED**.

Defendants' counsel shall submit a written order to the court consistent with this ruling and in compliance with Rule of Court 3.1312(a) and (b).

3. 25CV02625, Guerrero v. Apple American Group LLC

Plaintiff Azucena Guerrero ("Plaintiff"), Plaintiff Shantell Reed and Chad Schisler ("Plaintiff"), individually and on behalf of other all other similarly situated, including employees pursuant to the California Private Attorney General Act, filed the complaint against defendants Apple American Group, LLC, Flynn Group (together "Defendants"), and Does 1-100 for causes of action arising out of Defendants' alleged Labor Code violations (the "Complaint").

This matter is on calendar for the petition (styled as a "motion") by the Defendants to compel arbitration pursuant to Federal Arbitration Act ("FAA"), 9 USC §§ 1-16. The motion is CONTINUED.

I. Facts and Procedure

This matter arises out of an employment relationship between the parties. Plaintiff worked for Defendants starting in 2017. Plaintiff digitally signed acknowledgements of receipts affirming that she received and reviewed the "Flynn Group Part Time Handbook, January 2024" on May 20, 2024. Petkovic Decl., Ex. B (the "Handbook"). The Handbook contains a section entitled "Dispute Resolution Program Booklet" (the "DRP"). Handbook, pgs. 26-32. That section is also

restated in Spanish. Handbook, pgs. 33-39. The DRP contains a four-step process for addressing issues and claims by employees. It also states, in bold, capital letters: "**THIS PROGRAM IS A CONDITION OF YOUR EMPLOYMENT AND IS THE MANDATORY AND EXCLUSIVE MEANS BY WHICH DISPUTES BETWEEN YOU AND THE COMPANY MAY BE RESOLVED**…" The fourth step of the DRP is a mandatory arbitration provision. Handbook, pgs. 28-32 (the "Arbitration Agreement"). It delineates the various rights and responsibilities of the parties in the context of any dispute to arbitrate matters, addresses what claims are subject to arbitration, and waives Plaintiff's ability to bring "collective representative, or class-wide" claims. Handbook, pg. 29.

The Handbook also contains a "Non-Solicitation/Disclosure Agreement/Administrative Employees". Handbook, pg. 44-46 (the "NDA"). Therein, Defendants are granted various rights and claims if Plaintiff violates the requirement to not disclose any "confidential or proprietary information". Handbook, pg. 44. The Handbook is also accompanied by an Acknowledgement and a "Receipt" of the DRP, each of which Plaintiff signed within a period of 50 seconds. The "Receipt" restates and summarizes, but does not fully restate, many of the provisions of the Arbitration Agreement.

In her Declaration in Opposition, Plaintiff contends that there were significant time and supervisory pressures while reviewing the Handbook, and a lack of understanding of the contents. Plaintiff avers that she is primarily a Spanish speaker, and that she was not even aware that there was a section of the Handbook in Spanish. Defendants in turn present evidence regarding Plaintiff's prior communications in English and contesting Plaintiff's representations of the signing circumstances.

Defendants contend, both in the Arbitration Agreement and the Petition, that they are engaged in interstate commerce, and that therefore the Arbitration Agreement is governed by the Federal Arbitration Act ("FAA").

II. Governing Law

A. Compelling Arbitration

A party seeking to compel arbitration pursuant to CCP § 1281.2 must "plead and prove a prior demand for arbitration under the parties' arbitration agreement and a refusal to arbitrate under the agreement." *Mansouri v. Sup. Ct*. (2010) 181 Cal.App.4th 633, 640-641. "The party seeking to compel arbitration has the initial burden to plead and prove the existence of a valid arbitration agreement that applies to the dispute." *Dennison v. Rosland Cap. LLC* (2020) 47 Cal.App.5th 204, 209; see also, *Engalla v. Permanente Medical Group, Inc*. (1997) 15 Cal.4th 951, 972; *Pinnacle Museum Tower Assn. v. Pinnacle Market Development (US), LLC* (2012) 55 Cal.4th 223, 236. "Once that burden is satisfied, the party opposing arbitration must prove any defense to the agreement's enforcement, such as unconscionability [or waiver]." *Id*; see also, *Avery v. Integrated Healthcare Holdings, Inc.* (2013) 218 Cal.App.4th 50, 59. "Doubts are resolved in favor of arbitration" and "[t]he court should order [the parties] to arbitrate unless it is clear that the arbitration clause cannot be interpreted to cover the dispute." *San Francisco Police Officers' Assn. v. San Francisco Police Com.* (2018) 27 Cal.App.5th 676, 683, quoting *California*

Correctional Peace Officers Assn. v. State of California (2006) 142 Cal.App.4th 198, 204–205. "California has a strong public policy in favor of arbitration and any doubts regarding the arbitrability of a dispute are resolved in favor of arbitration." *Howard v. Goldbloom* (2018) 30 Cal.App.5th 659, 663, citing *Aanderud v. Superior Court* (2017) 13 Cal.App.5th 880, 890. "(T)he state policy 'favoring' arbitration, like the federal policy, 'is about treating arbitration contracts like all others, not about fostering arbitration.'" *Quach v. California Commerce Club, Inc.* (2024) 16 Cal.5th 562, 580. Therefore, "a court should treat the arbitration agreement as it would any other contract, without applying any special rules based on a policy favoring arbitration. That is, courts should apply the same procedural rules that they would apply to any other contract." *Id.* at 583. The filing of a lawsuit by a plaintiff is sufficient to show that plaintiff has refused to arbitrate claims, allowing a defendant to move for arbitration. *Hyundai Amco America, Inc. v. S3H, Inc.* (2014) 232 Cal.App.4th 572, 577.

B. Federal Arbitration Act ("FAA")

Under the Federal Arbitration Act ("FAA"), "(a) written provision in … a contract evidencing a transaction involving commerce to settle by arbitration a controversy thereafter arising out of such contract or transaction, or the refusal to perform the whole or any part thereof, … shall be valid, irrevocable, and enforceable, save upon such grounds as exist at law or in equity for the revocation of any contract…" 9 U.S.C § 2. "This saving clause permits agreements to arbitrate to be invalidated by 'generally applicable contract defenses, such as fraud, duress, or unconscionability,' but not by defenses that apply only to arbitration or that derive their meaning from the fact that an agreement to arbitrate is at issue." *AT&T Mobility LLC v. Concepcion* (2011) 563 U.S. 333, 339 ("*Concepcion")*, quoting *Doctor's Associates, Inc. v. Casarotto* (1996) 517 U.S. 681, 687.

The FAA supports a general policy favoring arbitration. *Granite Rock Co. v. International Broth. of Teamsters* (2010) 561 U.S. 287, 302. However, this policy only reflects the general deference given to the terms of contracts within courts and does not establish special "arbitration-preferring procedural rules". *Morgan v. Sundance, Inc.* (2022) 596 U.S. 411, 418; citing *Moses H. Cone Memorial Hosp. v. Mercury Constr. Corp.* (1983) 460 U.S. 1, 24.

Under the Supremacy Clause of the U.S. Constitution, "the FAA preempts contrary state law." *Ferguson v. Corinthian Colleges, Inc.* (9th Cir. 2013) 733 F.3d 928, 932. In cases involving the FAA, state statutes that invalidate arbitration clauses specifically cannot be applied. *Allied-Bruce Terminix Companies, Inc. v. Dobson* (1995) 513 U.S. 265, 281. Nor may state courts do what the legislature cannot, and create jurisprudence which discriminates against arbitration specifically. *AT&T Mobility LLC v. Concepcion* (2011) 563 U.S. 333, 341. "What States may not do is decide that a contract is fair enough to enforce all its basic terms (price, service, credit), but not fair enough to enforce its arbitration clause." *Allied-Bruce Terminix Companies, Inc. v. Dobson* (1995) 513 U.S. 265, 281.

C. Contract Construction

Several contracts relating to the same matters, between the same parties, and made as parts of substantially one transaction, are to be taken together. Civ. Code § 1642. "According to that rule,

documents executed as part of a single transaction are construed together, even if they do not expressly refer to one another." *Alberto v. Cambrian Homecare* (2023) 91 Cal.App.5th 482, 490.

"An interpretation which gives effect is preferred to one which makes void." Civ. Code, § 3541; see also *City of San Diego v. Rider* (1996) 47 Cal.App.4th 1473, 1490 ("Under basic rules of statutory and contract construction, provisions subject to both lawful and unlawful interpretations are to be interpreted in a manner which makes them lawful."). "Words in a contract which are wholly inconsistent with its nature, or with the main intention of the parties, are to be rejected." Civ. Code, § 1653. "In cases of uncertainty not removed by the preceding rules, the language of a contract should be interpreted most strongly against the party who caused the uncertainty to exist." Civ. Code, § 1654. " ' "[A]ll applicable laws in existence when an agreement is made, which laws the parties are presumed to know and to have had in mind, necessarily enter into the contract and form a part of it, without any stipulation to that effect, as if they were expressly referred to and incorporated." [Citation.]' " *Edwards v. Arthur Andersen LLP* (2008) 44 Cal.4th 937, 954, quoting *Torrance v. Workers' Comp. Appeals Bd.* (1982) 32 Cal.3d 371, 378. "The purpose of construction is to explain and not add or subtract terms." *Katz v. Haskell* (1961) 196 Cal.App.2d 144, 158.

D. Unconscionability Standards

Unconscionability is a defense under California contract law. See Civ. Code, § 1670.5. As applied to arbitration, two elements must be shown, procedural unconscionability and substantive unconscionability. *Baltazar v. Forever 21, Inc.* (2016) 62 Cal.4th 1237, 1243 ("*Baltazar*"). Whether an agreement is unconscionable depends on circumstances at the time it was made. *Abramson v. Juniper Networks, Inc.* (2004) 115 Cal.App.4th 638, 655 ("*Abramson*"). Both procedural and substantive unconscionability must be present before a court can refuse to enforce an arbitration provision based on unconscionability. *Baltazar, supra,* 62 Cal.4th at 1243. However, the two elements need not be present in the same degree; courts use a "sliding scale" approach in assessing the two elements. *Id*. at 1243-1244. The more substantively oppressive the contract term, the less evidence of procedural unconscionability is required to come to the conclusion that the term is unenforceable. *Id.* at 1244; *Armendariz v. Foundation Health Psychcare Services, Inc.* (2000) 24 Cal. 4th 83, 114 ("*Armendariz*"); *Ramirez v. Charter Communications, Inc.* (2024) 16 Cal.5th 478, 492 ("*Ramirez*")

1. Procedural Unconscionability

"Procedural unconscionability pertains to the making of the agreement; it focuses on the oppression that arises from unequal bargaining power and the surprise to the weaker party that results from hidden terms or the lack of informed choice." *Ajamian v. CantorCO2e, L.P.* (2012) 203 Cal.App.4th 771, 795. The first step in determining procedural unconscionability is an inquiry into whether the contract is one of adhesion. *OTO, L.L.C. v. Kho* (2019) 8 Cal.5th 111, 126 ("*OTO*"). "An adhesive contract is standardized, generally on a preprinted form, and offered by the party with superior bargaining power 'on a take-it-or-leave-it basis.'" *Id*; quoting *Baltazar, supra,* 62 Cal.4th at 1245. "Arbitration contracts imposed as a condition of employment are typically adhesive." *OTO, supra,* 8 Cal.5th at 126. Once the court determines the contract is one of adhesion, the question becomes whether the circumstances of the contract's

formation created such oppression or surprise that the overall fairness must be subject to closer scrutiny. *Id*. "Oppression occurs where a contract involves lack of negotiation and meaningful choice, surprise where the allegedly unconscionable provision is hidden within a prolix printed form." *Pinnacle Museum Tower Assn. v. Pinnacle Market Development (US), LLC* (2012) 55 Cal.4th 223, 247.

> The circumstances relevant to establishing oppression include, but are not limited to (1) the amount of time the party is given to consider the proposed contract; (2) the amount and type of pressure exerted on the party to sign the proposed contract; (3) the length of the proposed contract and the length and complexity of the challenged provision; (4) the education and experience of the party; and (5) whether the party's review of the proposed contract was aided by an attorney.

Grand Prospect Partners, L.P. v. Ross Dress for Less, Inc. (2015) 232 Cal.App.4th 1332, 1348.

Both pre-employment and continued employment arbitration contracts often represent disproportionate bargaining power for all but the most sought-after employees, as the employer has substantial advantages as a result of economic pressures. *OTO supra,* 8 Cal.5th at 127.

2. Substantive Unconscionability

"Substantive unconscionability pertains to the fairness of an agreement's actual terms and to assessments of whether they are overly harsh or one-sided." *Pinnacle Museum Tower Assn. v. Pinnacle Market Development (US), LLC* (2012) 55 Cal.4th 223, 246. Mere unequal benefit is insufficient to show substantive unconscionability, rather, the terms must be "so one-sided as to shock the conscience." *24 Hour Fitness, Inc. v. Superior Court* (1998) 66 Cal.App.4th 1199, 1213. Though many factors go into determining substantive unconscionability, the primary consideration in assessing substantive conscionability is mutuality. *Abramson, supra,* 115 Cal.App.4th at 657. Lack of mutuality, unlimited duration, and broad scope of claims covered are all factors which may be considered substantively unconscionable within an arbitration provision. *Cook v. University of Southern California* (2024) 102 Cal.App.5th 312, 321-328. Even if the arbitration provision exempts both parties from arbitration, if those claims unduly benefit the employer such that the employee is deprived of a claim or forum, then it would be considered substantively unconscionable.

3. Severance

"Courts are to look to the various purposes of the contract. If the central purpose of the contract is tainted with illegality, then the contract as a whole cannot be enforced. If the illegality is collateral to the main purpose of the contract, and the illegal provision can be extirpated from the contract by means of severance or restriction, then such severance and restriction are appropriate." *Armendariz v. Foundation Health Psychcare Services, Inc.* (2000) 24 Cal.4th 83, 124. "Accordingly, courts may liberally sever any unconscionable portion of a contract and enforce the rest when: the illegality is collateral to the contract's main purpose; it is possible to cure the illegality by means of severance; *and* enforcing the balance of the contract would be in the interests of justice." *Ramirez v. Charter Communications, Inc.* (2024) 16 Cal.5th 478, 517.

"(I)n the case of the agreement's lack of mutuality, such permeation is indicated by the fact that there is no single provision a court can strike or restrict in order to remove the unconscionable taint from the agreement. Rather, the court would have to, in effect, reform the contract, not through severance or restriction, but by augmenting it with additional terms." *Armendariz, supra,* 24 Cal.4th at 124–125.

III. Analysis

Defendants have moved to compel arbitration under the Arbitration Agreement. Defendants argue that the Court must compel arbitration without examining whether the arbitration agreement is enforceable, because the Arbitration Agreement delegates decisions regarding arbitrability to the arbitrator. Defendants contend that regardless of the nature of Plaintiff's claims, Plaintiff waived her ability to bring a class action as part of the Arbitration Agreement, and that Plaintiff's individual PAGA claims must be arbitrated.

Plaintiff opposes Defendant's motion averring that the Arbitration Agreement is both procedurally and substantively unconscionable, and therefore it should not be enforced.

As a preliminary matter, Defendants have shown that an arbitration agreement exists, and that it was Plaintiff that signed it. Therefore, Plaintiff bears the burden of showing that the contract should not be enforced, and Plaintiff thereon relies on arguments that the contract is procedurally and substantively unconscionable.

A. The FAA Applies

Defendants, in moving to compel arbitration, argue that the arbitration agreement is governed by the Federal Arbitration Act, as the contract sufficiently relates to interstate commerce. For this proposition, Plaintiff offers no substantive argument to the contrary. The analysis is therefore controlled by the FAA.

Defendants also argue that the Supreme Court's decision in *AT&T Mobility LLC v. Concepcion* (2011) 563 U.S. 333, 340 ("*Concepcion*"), requires that due to the supremacy clause, the FAA requires this Court to dismiss Plaintiff's class action claims. This is only true if the Court finds that the agreement is not unconscionable. *Concepcion* is absolutely clear that traditional defenses to contract such as the unconscionability analyzed in *Armendariz*, are allowed under 9 USC § 2. *AT&T Mobility LLC v. Concepcion* (2011) 563 U.S. 333, 339. California jurisprudence has continued to apply *Armendariz* without incident since. See *Ramirez v. Charter Communications, Inc.* (2024) 16 Cal.5th 478, 493.

Similar issues apply to the PAGA claims, with distinguishable results. An aggrieved employee's "individual" PAGA claims *are* required to be arbitrated under the FAA (assuming the agreement is not unconscionable). *Viking River Cruises, Inc. v. Moriana* (2022) 596 U.S. 639, 660. However, an aggrieved employee's representative claims stand in the shoes of the CLRB and accordingly cannot be contracted away through arbitration agreement between the aggrieved employee and the employer. *Adolph v. Uber Technologies, Inc.* (2023) 14 Cal.5th 1104, 1120. Accordingly, if arbitration is compelled, the Court *must* order individual PAGA claims to

arbitration and stay the representative claims to be litigated after the conclusion of arbitration. *Leeper v. Shipt, Inc.* (2024) 107 Cal.App.5th 1001, 1012.

If Plaintiff can show procedural and substantive unconscionability each in sufficient amounts to justify the defense to enforcement of the contract, she should not be bound to its terms.

B. The Handbook is Properly Taken Together

Plaintiff argues the entire Handbook must be taken together under Civil Code § 1642, and accordingly the terms contained in the NDA are relevant for analyzing the unconscionability of the Arbitration Agreement. Defendant argues that Plaintiff's authorities are inapposite, but this is not persuasive. Plaintiff's citation to *Alberto v. Cambrian Homecare* (2023) 91 Cal.App.5th 482, particularly is on point. In that case, the trial court, and the court of appeal in affirming, found that a confidentiality agreement and arbitration agreement had to be read together when determining whether the arbitration agreement was unconscionable. *Id*. at 490. "[U]nconscionability in the Confidentiality Agreement can, and does, affect whether the Arbitration Agreement is also unconscionable. To hold otherwise would let [defendant] impose unconscionable arbitration terms, and then avoid a finding of unconscionability because it put the objectionable terms in a (formally) separate document." *Alberto v. Cambrian Homecare* (2023) 91 Cal.App.5th 482, 491. Defendants, having presented Plaintiff with a 52-page handbook, covering a variety of subjects, with agreement to all those therein as a requirement of her employment, cannot now selectively disclaim a few pages here and there as a "separate agreement" through language purporting to separate the parts. They all relate to Plaintiff's employment. They were all required. Defendants argue that claims under the NDA are subject to the Arbitration Agreement, but this is further reason why the provisions *must* be read together. The Arbitration Agreement purports to dictate the forum in which the parties are to have disputes adjudicated, and the NDA creates claims which Defendants might bring within that forum. They *are* related, and must be read as such.

C. The Delegation Clause is Unambiguous

While Plaintiff avers that the delegation clause is made ambiguous by references to court actions contained elsewhere in the Handbook, they are not persuasive. First, the delegation clause is, while buried mid-paragraph within page three of the arbitration terms, clear in its language. "The arbitrator, and not any federal, state, or local court or agency, shall have exclusive authority to resolve any dispute relating to the interpretation, arbitrability, applicability, enforceability or formation of the agreement to arbitrate including, but not limited to, any claim that all or any part of the agreement to arbitrate is void and voidable."

Plaintiff attempts to cloud the issue by making reference to other provisions within the Handbook, but the Supreme Court was clear in stating that arbitration delegation clauses are to be reviewed narrowly. *Rent-A-Center, West, Inc. v. Jackson* (2010) 561 U.S. 63, 75. Moreover, Plaintiff is generally unpersuasive in arguing that the NDA contains contrary terms that confuse the possible forum. The NDA does not contain language indicating that it allows Defendants to proceed to Court as a forum in preference over arbitration, as required by the Arbitration Agreement. Plaintiff's citation to *Mondragon v. Sunrun Inc.* (2024) 101 Cal.App.5th 592, is

unpersuasive. Here, there is an express delegation provision not present in *Mondragon*, which relied on the AAA rules that were not included with the agreement for the principle that the arbitrator had the power to decide arbitrability. *Id*. at 608 ("Had the agreement stated the arbitrator would decide all disputes regarding the scope of the arbitration agreement, the analysis might be different."). The limited analysis here indicates that the delegation was clear and unambiguous based on the express language of the delegation provision.

D. Unconscionability of the Delegation Clause

Defendants oversimplify the enforceability of delegation clauses. While Defendants are correct that delegation clauses *may* place the issue of unconscionability as delegated to the arbitrator, "the delegation must not be revocable under state contract defenses to enforcement." *Pinela v. Neiman Marcus Group, Inc.* (2015) 238 Cal.App.4th 227, 240. The principle underlying this goes to the contractual core of arbitration agreements. If the agreement was never conscionable in the first place, how can Plaintiff have assented within the agreement to delegation? This is narrowly interpreted however, and the question is whether *the delegation clause itself* is unconscionable. *Pinela v. Neiman Marcus Group, Inc.* (2015) 238 Cal.App.4th 227, 256.

Turning to the substance, Plaintiff first avers that there is high procedural unconscionability. Plaintiff provides significant testimony regarding the circumstances under which she signed the Arbitration Agreement. In relevant part: "Managers would direct me to open the link on my phone and sign where indicated. They would point to or move through the screen to show me where to sign. I was not given a meaningful opportunity to stop and carefully read the documents before signing." Plaintiff's Declaration ¶ 10. Plaintiff supports this by pointing to the time stamps attached to her digital signatures, evidencing that her signatures on the Handbook and the Acknowledgement are a mere 50 seconds apart. Plaintiff avers that she was not presented the Spanish version of the agreement and is not adequately comfortable with English to understand the complex legal language at issue. Plaintiff did not have an opportunity to have the matter reviewed by an attorney. This obviously presents enormous procedural unconscionability. *Cabatit v. Sunnova Energy Corp.* (2020) 60 Cal.App.5th 317, 324. The scope of the procedural unconscionability present here is extraordinarily high if Plaintiff's representation of the circumstances here are to be believed.

However, on Reply Defendants aver that Plaintiff misrepresents the circumstances of her signing of the agreement. Plaintiff's manager submitted a declaration stating her practice when informing "employees—including Ms. Guerrero" to review and sign documents, averring that "While I understand that Ms. Guerrero now contends that she was not given a meaningful opportunity to carefully read the documents before signing, I never did or said anything to give her that impression." Declaration of Cecilia Santos in Reply, ¶ 4. Defendants point out that there is a Spanish version of the Arbitration Agreement included in the Handbook immediately after the English version. Defendants also aver that the current version of the Arbitration Agreement is largely redundant of the prior version, but Defendants fail to be forthcoming about any changes, and there is no evidence that the earlier version was not subject to the same alleged pressures in signing as the current version. Moreover, at that juncture, it is a collateral matter.

The balance of the motion relies on the weight of the procedural unconscionability. Where there

are disputed issues of fact related to a petition to compel arbitration, the matter is appropriately heard with testimony where the Court can assess credibility. *Ashburn v. AIG Financial Advisors, Inc.* (2015) 234 Cal.App.4th 79, 98. The Court will accordingly set this matter for an evidentiary hearing. The matter is **CONTINUED** to **August 11, 2026 at 3:00 pm in Department 19**. Parties are to file a hearing brief including witnesses and proposed evidence by July 28, 2026.

Certainly, there are factors here which are undoubtedly weighing in favor of a finding of procedural unconscionability without live testimony. The contract is plainly and obviously one of adhesion. Defendants' argument to the contrary on reply is nothing short of a misrepresentation of the terms of their own contract. The first page of the Dispute Resolution Booklet states, in bold, all capital writing: "**THIS PROGRAM IS A CONDITION OF YOUR EMPLOYMENT AND IS THE MANDATORY AND EXCLUSIVE MEANS BY WHICH DISPUTES BETWEEN YOU AND THE COMPANY MAY BE RESOLVED**…" It is not, as Defendants aver, "voluntary" for the purposes of analyzing contracts of adhesion. Second, employment contracts are very often adhesive in nature purely due to the financial pressure to which the employee is subject. *OTO, L.L.C. v. Kho* (2019) 8 Cal.5th 111, 127. Plaintiff's choices were to agree to the form, take it or leave it contract, or lose her employment. Defendants' false and unsupported contention to the contrary draws significant concern.

Other less weighty factors also remain relevant and uncontested. The rules of the arbitration were not provided but instead hidden behind hyperlinks. The delegation provision is buried mid-paragraph under a heading which gives little indication that delegation may be at issue. The Arbitration Agreement is a few pages ensconced within 44 substantive pages of the Handbook. The text of the agreement is small. There is moderate procedural unconscionability absent any evidence of the conditions under which Plaintiff signed the agreement.

In turn, Plaintiff is also persuasive that there is some substantive unconscionability in the delegation agreement. Specifically, Plaintiff avers that the provision regarding the recovery of fees is one sided, and they are correct for more reasons than they express. Plaintiff cites to *Ramirez v. Charter Communications, Inc.* (2024) 16 Cal.5th 478, 507, averring that adding fee provisions for successfully compelling arbitration was a substantively unconscionable provision. The *Ramirez* court (while obviously correct), does not address an additional reason why this provision is substantively unconscionable. In moving to compel arbitration, fees are normally only capable of being awarded against a drafting party for breaching an arbitration agreement. CCP § 1281.99. To allow the drafter to shift the fees to the signer under the auspices of a "bilateral" provision, while Defendants were *always* obligated to pay fees in such circumstances, is not truly bilateral. Shifting these fees is a substantively unconscionable provision.

Moreover, severance of such a provision would accomplish nothing, Defendants having already received a substantial portion of the benefit in disincentivizing Plaintiff from bringing the matter before the Court. Severance at this point would not eliminate the prejudice of the unconscionable provision. The Court cannot eliminate the need for an evidentiary hearing through severing the unconscionable provision.

E. The Arbitration Agreement as a Whole is Potentially Unconscionable

The same analyses applicable to the procedural unconscionability of the delegation clause largely apply to the balance of the Arbitration Agreement. While the location of the delegation clause is no longer significantly relevant, the arbitration provision is listed as the fourth step of a four-step process under the dispute resolution heading, still presented in small text. This is less unconscionable than the delegation provision individually, but still difficult to read, especially when expected to review on a phone with a supervisor observing. The need for evidence applies also to the Arbitration Agreement as a whole.

Plaintiff's prior argument regarding shifting of fees remains persuasive as to substantive unconscionability under *Ramirez.* The additional factors to which Plaintiff points are less persuasive. Plaintiff also argues that the preceding three steps of the dispute resolution process give Defendants an unfair "peek" at claims. Defendants point out that the Dispute Resolution Process contains language stating that those provisions are optional, and the arbitration provision remains the only mandatory portion of the dispute resolution process. Plaintiff is persuasive that the Dispute Resolution Process contains at minimum misleading language regarding whether Plaintiff must perform the preceding steps. While the Open Door Policy, the Executive Review, and the Mediation steps all use language such as "may" or "elect", the Arbitration Agreement implies that these are mandatory steps before arbitration. Under the "Criteria for Mass Arbitration", it states:

> "Each of the individual claimants must have exhausted the applicable mandatory program steps described in the Dispute Resolution Program Booklet above prior to filing a demand for arbitration. If any claimant files a demand for arbitration without fully complying with the applicable mandatory program steps, that claimant shall be considered in breach of the DRP. In the event of such breach, the non-breaching party may seek enforcement of the DRP in a court of competent jurisdiction, and, except where otherwise prohibited by applicable law, entitled to recovery of reasonable attorneys' fees and costs incurred by such enforcement action"

Handbook, pg. 31.

This creates doubt and substantive unconscionability in the form of threatening employees with fees if they don't perform the preceding steps, which Plaintiff points out does not toll any claims. Procedural adherence may result in an unfair advantage, and limits or prejudices the claims brought by employees. Accordingly, it is mildly substantively unconscionable in effect.

Plaintiff also argues that the NDA must be read with the Arbitration Agreement and that the substantively unconscionable terms of the NDA must be considered. Plaintiff's contention that the choice of law provision applicable to the NDA is substantively unconscionable is dependent and interwound with their argument that the subjects covered by the NDA. Choice of law provisions are, generally, enforceable absent a "substantial injustice". *Pinela v. Neiman Marcus Group, Inc.* (2015) 238 Cal.App.4th 227, 247. However, if Plaintiff can show that the provision violates Labor Code § 232.5, the application of Delaware law to any such section becomes anathematic to fair adjudication of claims. Therefore, this adds additional prejudice *if* the NDA prevents Plaintiff from "disclosing" "working conditions."

The question then becomes whether the NDA violates Plaintiff's rights under Labor Code § 232.5. Labor Code § 232.5 protects Plaintiff's right to discuss "working conditions", a term which has been construed broadly. In turn, the NDA gives Defendants a cause of action if Plaintiff shares *any* of the following:

> any and all non-public information that any of the Flynn Applebee's Companies and/or their employees, agents, and/or representatives have disclosed or may disclose to me, including but not limited to information related to: guests, prospective guests, vendors, personnel, recruiting, retention, internal communications, events, or meetings, or any other research, development, operations, marketing, transactions, regulatory affairs, discoveries, inventions, methods, processes, data, strategies, plans, pricing, prospects, know-how and ideas, whether tangible or intangible, and including all copies, analyses and other derivatives thereof.

Handbook, pg. 44.

Neither party is particularly persuasive on this point. Plaintiff argues that the definitions under the NDA of protected information are so broad, they clearly encompass protected working conditions. Defendants in turn argue that the provision must be read on a manner which does not render it illegal under Civil Code § 1643. Defendants attempt to draw attention to the term "non-public", but nothing within Labor Code § 232.5 can be construed as making working conditions "public" so much as capable of being publicized. Given that the NDA specifically threatens Plaintiff with reprisals should such publication occur, Plaintiff's position of the implied threat of action is understandable. Plaintiff is not truly offered an opportunity to address this, as Defendants offer it for the first time on Reply after Plaintiff argues in Opposition. In contrast, Defendants fail to be persuasive that their use of vague and broad language which *would* encompass matters protected by the statute are not "rewriting" the language of the NDA in an impermissible manner. *Ramirez v. Charter Communications, Inc.* (2024) 16 Cal.5th 478, 503.

Given the orders that the parties file briefs before the evidentiary hearing, both parties are ordered to offer supplemental briefing particularly on the issue of whether Defendants' vague and broad language in a non-disclosure agreement might be otherwise required to be interpreted in a manner which rescues the imprecision, or if the prejudicial effect of such language being included in the contract is itself a violation of Labor Code § 232.5. The maximum length of this portion of the hearing brief is two pages.

F. Severance

Severance should not be further considered until such time as the scope of the unconscionability at issue.

G. Stay

Issuance of the requested stay is mandatory upon hearing the motion. CCP § 1281.4; see also

OTO, supra, 8 Cal.5th at 140. Defendant's motion for a stay of the present proceedings while Plaintiff's individual claims are arbitrated is GRANTED until such time that the motion is denied in substance, or the arbitration has been completed.

IV. Conclusion

The motion to compel arbitration is **CONTINUED** to **August 11, 2026 at 3:00 pm in Department 19**. Parties are to file a hearing brief including witnesses and proposed evidence by July 28, 2026.

The mandatory stay is **GRANTED**.

Plaintiff shall submit a written order to the court consistent with this tentative ruling and in compliance with Rule of Court 3.1312(a) and (b).

4. 25CV07015, O'Rourke v. Catholic Charities of the Diocese of Santa Rosa

Plaintiff's Counsel seeks to be relieved on the basis of an irreparable breakdown in the attorney client relationship, as they aver that Plaintiff has asked to terminate representation. The Court notes that the Declaration in Support states that Plaintiff was served via mail at his last known address as confirmed by mail, return receipt requested. However, this raises two issues. First, that Service occurred before the clerk's office assigned the hearing date. There is no subsequent proof of service in the file. Second, Counsel also avers that withdrawal is related to Plaintiff's arrest. Nothing reflects whether Plaintiff is currently incarcerated and whether he was served there, or Counsel simply mailed the motion to an unoccupied home. It appears that Plaintiff was not served with the hearing date, and therefore is not capable of either appearing or opposing the motion. Therefore, Counsel's motion to be relieved as counsel for Plaintiff is **DENIED without prejudice**.

5. SCV-245738, Liebling v. Goodrich

This matter is the subject of an enormous record, containing innumerable plaintiffs and defendants. As is relevant here, plaintiffs prevailed in the action and obtained the August 4, 2021 judgment (the "Judgment") against defendant Robert E. Zuckerman ("Zuckerman"). Among the plaintiffs/judgment creditors is Richard Abel ("Abel").

This matter is on calendar for a motion by Zuckerman to quash a subpoena duces tecum issued by Abel to Capital One, National Association ("Capital One") for records related to Zuckerman under Code of Civil Procedure ("CCP") § 1987.2. Zuckerman's motion to quash is DENIED.

I. Procedural and Evidentiary Issues

Abel contends that the subpoena has already been complied with, and is moot. That is not persuasive, as there are functions by which erroneously produced documents can be "clawed back", and counsel for Capital One stated at the last hearing that no such production had occurred. The Court finds the failure to provide a case list nonprejudicial.

Abel has asserted various evidentiary objections. Given the procedural nature of the ruling below, the objections are irrelevant to the result.

II. Governing Law

A. Discovery Generally

The scope of discovery is one of reason, logic and common sense. *Lipton v. Superior Court* (1996) 48 Cal.App.4th 1599, 1612. The right to discovery is generally liberally construed. *Williams v. Superior Court* (2017) 3 Cal.5th 531, 540. "California law provides parties with expansive discovery rights." *Lopez v. Watchtower Bible & Tract Society of N.Y., Inc.* (2016) 246 Cal.App.4th 566, 590-591. Specifically, the Code provides that "any party may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action or to the determination of any motion made in that action, if the matter either is itself admissible in evidence or appears reasonably calculated to lead to the discovery of admissible evidence." CCP § 2017.010; see also, *Garamendi v. Golden Eagle Ins. Co*. (2004) 116 Cal.App.4th 694, 712, fn. 8. ("For discovery purposes, information is relevant if it 'might reasonably assist a party in evaluating the case, preparing for trial, or facilitating settlement…") See *Lopez, supra,* 246 Cal.App.4th at 590-591, citing *Garamendi, supra,* 116 Cal.App.4th at 712, fn. 8. "Admissibility is not the test and information[,] unless privileged, is discoverable if it might reasonably lead to admissible evidence." *Id*. "These rules are applied liberally in favor of discovery, and (contrary to popular belief), fishing expeditions are permissible in some cases." *Id.* When a party serves response after a motion to compel is filed, the court maintains jurisdiction within its discretion to determine whether the requested sanctions are appropriate. *Sinaiko Healthcare Consulting, Inc. v. Pacific Healthcare Consultants* (2007) 148 Cal.App.4th 390, 410-411.

"California law provides parties with expansive discovery rights." *Lopez v. Watchtower Bible & Tract Society of N.Y., Inc.* (2016) 246 Cal.App.4th 566, 590-591. Specifically, the Code provides that "any party may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action or to the determination of any motion made in that action, if the matter either is itself admissible in evidence or appears reasonably calculated to lead to the discovery of admissible evidence." CCP § 2017.010; see also, *Garamendi v. Golden Eagle Ins. Co*. (2004) 116 Cal.App.4th 694, 712, fn. 8. "For discovery purposes, information is relevant if it 'might reasonably assist a party in evaluating the case, preparing for trial, or facilitating settlement…" See *Lopez, supra,* 246 Cal.App.4th at 590-591, citing *Garamendi, supra,* 116 Cal.App.4th at 712, fn. 8. "Admissibility is not the test and information[,] unless privileged, is discoverable if it might reasonably lead to admissible evidence." *Id*. "These rules are applied liberally in favor of discovery, and (contrary to popular belief), fishing expeditions are permissible in some cases." *Id.* The scope of discovery is one of reason, logic and common sense. *Lipton v. Superior Court* (1996) 48 Cal.App.4th 1599, 1612. The right to discovery is generally liberally construed. *Williams v. Superior Court* (2017) 3 Cal.5th 531, 540.

Compelling need is not always the test to apply in determining whether discovery is permissible, as "Courts must instead place the burden on the party asserting a privacy interest to establish its

extent and the seriousness of the prospective invasion, and against that showing must weigh the countervailing interests the opposing party identifies". *Williams v. Superior Court* (2017) 3 Cal.5th 531, 557. Good cause should be shown on requests for production from non-parties as well as parties. *Calcor Space Facility, Inc. v. Superior Court* (1997) 53 Cal.App.4th 216, 223–224, as modified (Mar. 7, 1997)("*Calcor Space Facility*"). Good cause can be met through showing specific facts of the case and the relevance of the requested information. *Associated Brewers Distributing Co. v. Superior Court of Los Angeles County* (1967) 65 Cal.2d 583, 586–587. "(T)he good cause which must be shown should be such that will satisfy an impartial tribunal that the request may be granted without abuse of the inherent rights of the adversary. There is no requirement, or necessity, for a further showing." *Greyhound Corp. v. Superior Court In and For Merced County* (1961) 56 Cal.2d 355, 388. As the right to discovery is liberally construed, so too is good cause. *Id* at 377-378. "(A) party seeking to compel production of records from a nonparty must articulate specific facts justifying the discovery sought; it may not rely on mere generalities. (citation). In assessing the party's proffered justification, courts must keep in mind the more limited scope of discovery available from nonparties." *Board of Registered Nursing v. Superior Court of Orange County* (2021) 59 Cal.App.5th 1011, 1039, reh'g denied (Feb. 3, 2021), review denied (Apr. 21, 2021); citing *Calcor Space Facility* at 567; *see also Catholic Mutual Relief Society v. Superior Court* (2007) 42 Cal.4th 358, 366.

Additionally, the right of privacy is an "inalienable right" secured by article I, section 1 of the California Constitution. *Valley Bank of Nevada v. Superior Court* (1975) 15 Cal.3d 652, 656. The right of privacy protects against the unwarranted, compelled disclosure of private or personal information and "extends to one's confidential financial affairs as well as to the details of one's personal life." *Ibid*. "Personal financial information comes within the zone of privacy protected by article I, section 1 of the California Constitution." *Harris v. Superior Court* (1992) 3 Cal.App.4th 661, 664; see also, *SCC Acquisitions, Inc. v. Superior Court* (2015) 243 Cal.App.4th 741, 754–755 (The right to privacy extends to personal financial information.). However, even the constitutional right of privacy does not provide absolute protection "but may yield in the furtherance of compelling state interests." *Ibid*, quoting, *People v. Wharton* (1991) 53 Cal.3d 522, 563. Thus, "when the constitutional right of privacy is involved, the party seeking discovery of private matter must do more than satisfy the section 2017[.010] standard [and] the party seeking discovery must demonstrate a compelling need for discovery, and that compelling need must be so strong as to outweigh the privacy right when these two competing interests are carefully balanced." *Lantz v. Superior Court* (1994) 28 Cal.App.4th 1839, 1853–1854. A discovery proponent may demonstrate compelling need by establishing the discovery sought is directly relevant and essential to the fair resolution of the underlying lawsuit. *Planned Parenthood Golden Gate v. Superior Court* (2000) 83 Cal.App.4th 347, 367; see also, *Britt v. Superior Court* (1978) 20 Cal.3d 844, 859-862; *Williams v. Superior Court* (2017) 3 Cal.5th 531, 552-555; *Johnson v. Superior Court* (2000) 80 Cal.App.4th 1050, 1071.

The court must "carefully balance" the interests involved - *i.e.* the right of privacy versus the public interest in obtaining just results in litigation. *Schnabel v. Superior Court* (1993) 5 Cal.4th 704, 714; see also, *Valley Bank of Nevada, supra,* 15 Cal.3d at 657; *Pioneer Electronics (USA), Inc., supra,* 40 Cal.4th at 371. In balancing these interests, "[t]he court must consider the purpose of the information sought, the effect that disclosure will have on the affected persons and parties, the nature of the objections urged by the party resisting disclosure and availability of alternative,

less intrusive means for obtaining the requested information." *SCC Acquisitions, Inc., supra,* 243 Cal.App.4th at 754–755. "[T]he more sensitive the nature of the personal information that is sought to be discovered, the more substantial the showing of the need for the discovery that will be required before disclosure will be permitted." *Ibid.*

Postjudgment discovery procedures against third parties "provide() the trial court with the authority to permit a creditor to seek information regarding the existence of the debtor's property in the third party's possession and/or a debt owed to the debtor. A third party document subpoena must therefore be limited to 'confirm[ing] the existence of the subject property [and/or] debt.'". *Finance Holding Co. LLC v. The American Institute of Certified Tax Coaches, Inc.* (2018) 29 Cal.App.5th 663, 682. While the court is vested with some inherent powers to fashion appropriate procedures in this regard, the expansiveness of these procedures are still constrained by the purposes of postjudgment discovery. *Id*. at 686.

B. Protective Orders

Code of Civil Procedure Section 1987.1 states in relevant part that "[w]hen a subpoena requires the…production of books, documents or other things ... the court, upon motion reasonably made…may make an order quashing the subpoena entirely, modifying it, or directing compliance with it upon such terms or conditions as the court shall declare, including protective orders..." CCP §1987.1; see also, *Monarch Healthcare v. Superior Court* (2000) 78 Cal.App.4th 1282, 1287-1288. "In addition, the court may make any other order as may be appropriate to protect the person from unreasonable or oppressive demands, including unreasonable violations of the right of privacy of the person." *Ibid*.

Although Code of Civil Procedure section 1985(b) states in part that "an affidavit shall be served with a subpoena duces tecum issued before trial, showing good cause for the production of the matters and things described in the subpoena," Code of Civil Procedure section specifically states that "[a] deposition subpoena that commands only the production of business records for copying need not be accompanied by an affidavit or declaration showing good cause for the production of the business records designated in it." See CCP §§1985(b) and 2020.410(c); see also, *City of Woodlake v. Tulare County Grand Jury* (2011) 197 Cal.App.4th 1293, 1301 ["good cause affidavits are not always required…[f]or example, under the statutes providing for pretrial discovery in civil proceedings, a party may seek the production of business records for copying…" and "[a] deposition subpoena that commands only the production of business records for copying need not be accompanied by an affidavit or declaration showing good cause for the production of the business records designated in it."], quoting Code Civ. Proc. §2020.410(c); Cal. Prac. Guide Civ. Pro. Before Trial Ch. 8E-6, §8:547.5 ["A subpoena for the production of business records need not be accompanied by an affidavit or declaration showing good cause for production of the records."].

A party seeking a protective order must show good cause for issuance of the order by a preponderance of evidence. *Stadish v. Sup. Ct.* (1999) 71 Cal.App.4th 1130, 1145 (protective order directed at a document demand). "Generally, a deponent seeking a protective order will be required to show that the burden, expense, or intrusiveness involved in … [the discovery procedure] clearly outweighs the likelihood that the information sought will lead to the discovery

of admissible evidence." *Emerson Elec. Co. v. Sup. Ct.* (1997) 16 Cal.4th 1101, 1110 (protective order in connection with deposition).

III. Analysis

Abel has issued a subpoenas duces tecum to Capital One, which is the holder of at least one account owned by Zuckerman. Zuckerman moves to quash the subpoena issued under various theories.

A. Procedural Defect in the Motion

Abel contends various procedural defects, but most substantively that the motion is deficient for failure to include a separate statement, citing *Mills v. U.S. Bank* (2008) 166 Cal.App.4th 871, 893.

Zuckerman **on multiple occasions** cites unpublished authority in opposition to published authority. This is a violation of the Rules of Court. See California Rules of Court, Rule 8.1115.

The contention that the motion to quash is deficient due to a lack of separate statement has merit. As Abel argues, California Rules of Court ("CROC") requires a separate statement for motions "to quash the production of documents or tangible things at a deposition". Rule of Court, Rule 3.1345 (a)(5). The Court notes that this includes subpoenas for records served to third parties. *In re Marriage of Moore* (2024) 102 Cal.App.5th 1275, 1296 (holding that in spite of separate statement requirement, there was no error in accepting an outline under Rule 3.1345 (b)(2)). A court may deny a discovery motion under Rule 3.1345 for failure to file a separate statement. *Mills v. U.S. Bank* (2008) 166 Cal.App.4th 871, 893 (dealing with predecessor version Rule 3.1020). Zuckerman contention relying on unpublished cases has not provided authority to support the issue when weighed against *Mills*. This is a procedural defect impacting the Court's ability to parse Zuckerman's motion. Abel has appropriately raised it. This is sufficient basis to deny the motion.

Zuckerman's wrote contention of privacy rights makes clear why such a separate statement is needed, as the different requests involve different levels of intrusiveness into Zuckerman's financial affairs, which are undeniably at issue due to his status as a judgment debtor. Unlike prior motions, this goes directly to that property held by Capital One for Zuckerman, the express scope of postjudgment discovery. Zuckerman also repeatedly avers that all his property is exempt, but that is precisely the issue the discovery goes to.

Therefore, the Motion to Quash is DENIED.

III. Conclusion

Zuckerman motion to quash is **DENIED**.

Abel shall submit a written order to the Court consistent with this tentative ruling and in compliance with Rule of Court 3.1312(a) and (b).

****This is the end of the Tentative Rulings.*****