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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

JEREMY GURSEY, an individual,

Plaintiffs,

v.

SOUTHERN CALIFORNIA EDISON COMPANY, a California Corporation; EDISON INTERNATIONAL, a California Corporation; and DOES 1-200, inclusive,

Defendants.

Lead Case No. 25STCV00731
and Related Cases

PLAINTIFFS' REPLY IN SUPPORT OF MOTION TO COMPEL FURTHER RESPONSES TO REQUEST FOR PRODUCTION NOS. 268-281

Date: December 22, 2025
Time: 9:00 a.m.
Dept: 17

Assigned for all purposes to:
Judge: Hon. Laura A. Seigle
Dept.: 17

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I. INTRODUCTION

Southern California Edison Company ("SCE") continues to refuse to produce the Rate Base Documents (RFP Nos. 276–281) and the Annual Incentive Awards Documents (RFP Nos. 268–275) sought by Plaintiffs in their Third Request for Production of Documents. However, none of the bases advanced by SCE in its Opposition support SCE's refusal to produce all documents responsive to these Requests. Accordingly, for the reasons set forth in Plaintiffs' Motion and further explained in this Reply, Plaintiffs' Motion to Compel should be granted.

II. ARGUMENT

A. The Rate Base Documents (RFP Nos. 276–281)

1. The Opposition Cites the Wrong Standard for Discoverability of Documents

SCE claims that the Rate Base documents are beyond the scope of permissible discovery because they are not relevant. (Opposition at 7:6–9:9.) They argue that even if the Mesa-Sylmar circuit was included in the rate base application, it would not show malice by clear and convincing evidence. The standard they're applying—sufficiency of the evidence—is not the standard used to evaluate discoverability of documents.

A requesting party is not required to prove their case to make documents discoverable. They are not even required to prove admissibility. (*Gonzalez v. Superior Court* (1995) 33 Cal.App.4th 1539, 1546.) They are held to an even lower standard than admissibility: relevance to the subject matter of the action. (Code Civ. Proc. § 2017.010.) "For discovery purposes, information is relevant if it "might reasonably assist a party in evaluating the case, preparing for trial, or facilitating settlement." (*Gonzalez, supra*, 33 Cal.App.4th at 1546.)

Having clarity on SCE's exposure to punitive damages will achieve all three of these goals. It will help Plaintiffs evaluate their case, prepare for trial, and facilitate settlement. If SCE had included the Mesa-Sylmar circuit in their rate base application, they would be profiting from an asset that posed a risk to consumers.[1] As discussed at page 8, *infra*, evidence that a company

[1] The Opposition claims, without evidence, that the Mesa-Sylmar line "was depreciated long before 2024, and would therefore not be in SCE's rate base in 2024." (Opposition at 7:12–15.) Plaintiffs are not required to accept this

prioritized profits over safety can support an award of punitive damages. (*See e.g., Grimshaw v. Ford Motor Co.,* (1981) 119 Cal.App.3d 757, 813.)

2. The Opposition Relies on Authorities Discussing Third-Party Subpoenas

The Opposition cites *Board of Registered Nursing v. Superior Court* (2021) 59 Cal.App. 5th 1011 for the proposition that, "Although the scope of civil discovery is broad, it is not limitless." (Opposition at 6:25–26.) SCE cites *Calcor Space Facility v. Superior Court* (1997) 53 Cal.App.4th 216 for the proposition that fishing expeditions are not permissible. (Opposition at 10:12–15.) In both cases, the court evaluated the scope of subpoenas served on third parties. (*See Board of Registered Nursing, supra*, 59 Cal.App.5th at 1021–1022 and *Calcor, supra*, 53 Cal.App.4th at 219.) In *Board of Registered Nursing*, the court explains that,

> The discovery methods available against nonparties are more limited, and their procedures more streamlined. . . . The distinction between parties and nonparties reflects the notion that, by engaging in litigation, the parties should be subject to the full panoply of discovery devices, while nonparty witnesses should be somewhat protected from the burdensome demands of litigation.

(*Board of Registered Nursing, supra*, 59 Cal.App.5th at 1033 (cleaned up).)

When the Opposition claims that the Requests are an impermissible fishing expedition, it fails to cite the California Supreme Court, who authorized fishing expeditions in first-party discovery. (*See Greyhound Corp. v. Superior Court* (1961) 56 Cal.2d 355, 386.) Instead, SCE relies on the Fourth District case *Calcor*, which—like *Board of Registered Nursing*—evaluated a third-party subpoena. Furthermore, in *Calcor*, the court did not rule against the requesting party because the subpoena was a fishing expedition. It ruled against that party because the subpoena's "employment of six pages of 'definitions' and 'instructions' is particularly obnoxious" and that "the grossly excessive use of 'definitions' and 'instructions,' in and of itself, makes the subpoena unduly burdensome." (*Id*. at 223.)

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unsworn conclusory statement from SCE's lawyers. Plaintiffs are entitled to see documents proving this fact, which are the subject of the Rate Base requests.

The Rate Base requests were not requested via third-party subpoena. The Rate Base requests were served on SCE, who by engaging in litigation, is subject to the full panoply of discovery devices. (*Board of Registered Nursing, supra*, 59 Cal.App.5th at 1033.) The cases cited in support of their argument regarding a fishing expedition are neither binding nor persuasive.

3. The Rate Base Requests are Sufficiently Reasonably Particularized

The Opposition next argues that the motion should be denied because the Rate Base requests "are overbroad and not reasonably particularized." (Opposition at 9:10–28; 10:9–11:15.)

The Code requires that, "each request shall designate the documents to be inspected by specifically describing each individual item or by reasonable particularizing each category of item." (Code Civ. Proc. § 2031.030(c)(1).) Plaintiffs have met their burden. Request Nos. 276–278 seek documents regarding SCE's AUTHORIZED RATE BASE for 2024. That capitalized phrase was taken straight out of SCE's 2024 annual report to shareholders. (*See* Robins Decl. ¶ 3, Exh. A, p. 5, ¶ 16.) Request Nos. 279–281 seek documents regarding SCE's YEAR-END RATE BASE for 2024. That capitalized phrase was taken from another public document published by SCE—their 2024 Financial and Statistical Report. (*See* Robins Decl. ¶ 3, Exh. A, p. 6, ¶ 20.) In order to identify responsive documents, SCE needs to merely speak with the authors of those reports and ask for documents used to calculate their numbers. The Rate Base requests satisfy the Code because they reasonably particularize the categories of documents to be produced. (Code Civ. Proc. § 2031.030(c)(1).)

4. The Rate Base Documents are not "Available from Another Source"

The Opposition claims that the motion should be denied because the information sought could be obtained through a request for admission. (Opposition at 9:21–28.) This objection is not only impractical, it is not supported by any valid legal authority.

In support of their objection, the Opposition cites section 2019.030, which allows the court to put limits on discovery when the information sought "is obtainable from some other source that is more convenient, less burdensome, or less expensive." (Code Civ. Proc. § 2019.030(a)(1) (emphasis added).) Whether Plaintiffs serve a document request or request for admission, the information would be coming from the same source—SCE. This subdivision does not require a

party to serve a request for admission before serving a document request. In fact, the Code states that "the methods of discovery may be used in any sequence." (Code Civ. Proc. § 2019.020(a).)

In a different section of the Opposition, SCE points to several publicly available documents, inferring that the information sought by the Rate Base requests can be found there. It can't. The Rate Base requests are not asking for the documents submitted to the CPUC. They are asking SCE to show their work—to show the data and methodologies that support the final numbers they submitted to the CPUC. The CPUC is not a source of the information sought by the rate base requests.

This objection is also impractical and an abuse of the discovery process. If Plaintiffs were to serve a request for admission, it would be phrased as follows: "Admit that the Mesa-Sylmar Circuit was included as an asset in your rate base application for the period covering January 7, 2025." If SCE denied the request, SCE would be required to state all facts, identify all witnesses, and produce all documents that support their denial in response to Form Interrogatory No. 17.1. Responding to a document request is less burdensome than responding to a request for admission because SCE is not required to state all facts and identify all witnesses. SCE is only required to produce responsive documents.

5. The Burden Objection is not Supported by the Record

The Opposition claims that the motion should be denied because the Rate Base requests impose an unreasonable burden on SCE. (Opposition at 11:16–12:2.) In support of this argument, SCE again cited one of the cases analyzing third party subpoenas. (*Calcor Space Facility v. Superior Court* (1997) 53 Cal.App.4th 216).

As explained in the Motion, to sustain a burden objection, "there must be some showing either of an intent to create an unreasonable burden or that the ultimate effect of the burden is incommensurate with the result sought." (*West Pico Furniture Co. v. Superior Court* (1961) 56 Cal.2d 407, 417.) In *West Pico*, the responding party submitted a declaration stating that the information requested could only be obtained by a physical search of records in the defendant's 78 office locations. (*Id*. at 417.) Even that wasn't enough to sustain the objection because there was

no evidence of the man hours required to complete the search. "The objection based upon burden must be sustained by evidence showing the quantum of work required . . . ." (*Ibid.*)

The declaration submitted in support of the Opposition makes no mention of the quantum of work required to produce responsive documents. Therefore, this objection is not sufficient grounds to deny the motion.

6. The Privilege Objection is Meritless

The Opposition also argues that the motion should be denied because the Rate Base requests call for the production of privileged materials. (Opposition 10:1–8.) This objection is mitigated by the instructions to the Requests, which ask SCE to provide a privilege log for any responsive document that SCE believes is privileged. (See Robins Decl. ¶ 3, Exh. A, p. 6, ¶¶ 5–6.) A privilege log is required by the Code (Code Civ. Proc. § 2031.240(c)(1)), and the statutory requirement to provide a privilege log does not impose an undue burden on the responding party. (*See Riddell, Inc. v. Superior Court* (2017) 14 Cal.App.5th 755, 772.)

B. The Annual Incentive Awards Documents (RFP Nos. 268–275)

1. The "Right to Privacy" does not Preclude Production.

SCE initially claims that it should not be compelled to produce documents relating to its payment of incentive awards to Edison International ("EIX") and SCE executives because Plaintiffs have allegedly failed to meet a heightened burden for production applicable to documents "entitled to privacy under California law."

SCE's claim of privilege based on the "right to privacy" does not preclude production of the requested documents. First, executive compensation for EIX and SCE's senior executives has been publicly disclosed by EIX and SCE in regulatory filings and financial reports to shareholders. (*See e.g.* Individual Plaintiffs' Master Complaint ["Compl."] at ¶ 57, Robins Supplemental Decl.¶ 3, Exh. K, 2025 EIX Proxy Statement ["Proxy Statement"] at 53.) These senior executives have no "reasonable expectation of privacy" relating to this information. (*See Valley Bank of Nevada v. Superior Court of San Joaquin County* (1975) 15 Cal.3d 652, 656.) For lower-level executives of the named Defendants, even if the right to privacy extends to their annual incentive awards, which is questionable, there is not a heightened burden of relevancy that applies to its production. As the

California Supreme Court explained, although the "right to privacy" was applicable to the production of financial information of a bank's non-party customers, the relevance standard must "still be reasonably applied in accordance with liberal policies underlying the discovery procedures, [and] doubts as to relevance should generally be resolved in favor of permitting discovery." (*Id.* at 655.) Rather than preclude production altogether based on the right to privacy, at most this Court should find that the material may be produced subject to the Court's Protective Order. (*Id.* at 655 (trial court could fashion an order to accommodate considerations of both disclosure and confidentiality).)

SCE's reliance on *Britt v. Superior Court of San Diego County,* (1978) 20 Cal.3d 844 is misplaced. That case addressed production of documents pertaining to the Plaintiffs' and non-parties' local political activities including their membership in various organizations opposing the operation of the Defendant's Airport. Because this production implicated First Amendment rights of association, the Court required the requesting party to establish that such associational activities were "directly relevant" to the Plaintiff's claims, and that disclosure of the affiliations were "essential to the fair resolution of the lawsuit." (*Id.* at 859.) This standard makes sense in the First Amendment right of association context because the Court recognized that Plaintiffs should not be deterred from instituting lawsuits by fear of exposure of their private associational affiliations and activities. No similar policy reasons support the application of the "compelling interest" test to disclosure of financial documents of a corporate defendant's own employees.

2. The Incentive Awards Paid to Executives are Relevant to Plaintiffs' Claims.

SCE asserts that the requested documents should not be produced because Plaintiffs "have not established and cannot establish a causal connection between SCE's payment of incentive awards and Plaintiffs' claim of negligence." (Opposition at 13.) SCE attempts to limit Plaintiffs' negligence claim to "the allegation that SCE should have physically removed the idle Mesa-Sylmar line" and then asserts that it has conclusively established that there is no causal connection between SCE's payment of incentive awards and "whether SCE did or didn't do something with respect to the Mesa-Sylmar line."

SCE ignores that Plaintiffs have asserted a long list of negligent acts and omissions by EIX and SCE that may be found by the trier of fact to be substantial factors in causing the Eaton Fire. (*See e.g.* Individual Plaintiffs' Master Complaint at ¶¶111–119; 150–175; Public Entity Plaintiffs' Master Complaint at ¶¶ 42, 132-155.) It is well-settled that causation is determined by the "substantial factor" test in California:

> A substantial factor in causing harm is a factor that a reasonable person would consider to have contributed to the harm. It must be more than a remote or trivial factor. It does not have to be the only cause of the harm.

(CACI Instruction 430; *see also Mitchell v. Gonzales,* (1991) 54 Cal.3d 1041, 1953.)

With respect to the incentive awards in particular, Individual Plaintiffs and Public Entity Plaintiffs' Master Complaints directly link the companies' short- and long-term incentive awards to the condition of its electrical system and the resulting ignition and spread of the Eaton Fire. (*See e.g.* Individual Plaintiffs' Master Complaint at ¶ 58; Public Entity Plaintiffs' Master Complaint at ¶¶ 45, 148, and 155.) Individual Plaintiffs' Master Complaint alleges that the Defendants were well-aware of the Camp Fire in 2018 and the Kincade Fire in 2019 involving transmission equipment that should have been a wake-up call to the Defendants to known wildfire risks associated with their transmission equipment. (Individual Plaintiffs' Master Complaint at ¶¶ 92–105.) Instead of addressing these wildfire risks, company executives of EIX and SCE, acting as a single enterprise, consciously disregarded the wildfire risks associated with their transmission equipment while at the same time handsomely compensating themselves based on an annual "incentive award" program that gave substantially greater weight to financial performance than to safety performance. (Individual Plaintiffs' Master Complaint at ¶¶ 120–149; Public Entity Plaintiffs' Master Complaint at ¶ 26; *see also* Proxy Statement at 40, 41, 53 (showing senior executive incentive plan compensation increased in 2024 for four out of five senior executives despite decline in safety performance).) Indeed, the Defendants' own Proxy Statement confirms that the company's deficiencies in its safety matrix directly overlap with Plaintiffs' allegations in this case, and supports an inference that the Defendants' chose to spend excessive amounts on

incentive awards for executives while failing to meet performance goals for safety against wildfire risks.

As the LA Times article cited in Plaintiffs' Motion to Compel further documents,[2] the number of fires sparked by SCE equipment soared to 178 from 90 in the year before the Eaton Fire, and was 39% above the five-year average. The LA Times article further reported and the Defendants' own Proxy Statement confirms that, during the three years before the Eaton Fire, EIX and SCE's senior executive team's total compensation increased dramatically. (Proxy Statement at 53.) In their report to the CPUC, the Defendants said that, because their safety record worsened on certain key metrics, the executives took "a total deduction of 18 points" on a 100-point scale used in determining bonuses. However, the Defendants failed to explain what an 18-point deduction meant to executives in actual dollar terms. Plaintiffs' discovery is directed at finding the answer to this question, as well as to learn how the Defendants actually calculated in dollar terms their executives' bonuses when taking into safety metrics vs. financial performance.

SCE also claims that Plaintiffs' discovery is not relevant to proof of malice because, according to SCE, "whether or not SCE paid incentive awards does not reflect a willful disregard for Plaintiffs' safety." (Opposition at 13.) SCE also attempts to distinguish the Court's holding in *Rawnsley* that executive compensation is discoverable to establish substantive claims on the basis that *Rawnsley* involved misappropriation/conversion of partnership funds. However, the reasoning of *Rawnsley* applies with equal force to this case because the documents relating to annual incentive awards are directly relevant to not only Plaintiffs' substantive claim of negligence but also to establishing malice and alter ego. And has been well-settled in California since at least the Ford Pinto litigation in the early 1980s, proof of an "institutional mentality" necessary to support a finding of malice can be established by evidence that a company chose to put profits over safety. (*Grimshaw v. Ford Motor Co.,* (1981) 119 Cal.App.3d 757, 813.)

SCE also claims that the requested documents should not be produced because "Plaintiffs'

[2] *See e.g.,* https://www.latimes.com/environment/story/2025-05-18/edison-executives-receive-millions-of-dollars-in-pay-despite-poor-safety-statistics.

alter ego claims are untethered to SCE's payment of incentive awards." (Opposition at 12.) By so arguing, SCE unduly limits the factors that may be considered in assessing whether the corporate veil may be pierced, including whether one corporation uses the other as a "mere shell or conduit" for the affairs of the other, and whether the two corporations have identical directors and officers. (*Sonora Diamond Corp. v. Superior Court,* (2009) 83 Cal.App.4th 523, 538.) Likewise, the corporate veil may be disregarded when a parent corporation engages in conduct amounting to bad faith to hide behind the corporate form. (*Id.*)

Moreover, the corporate veil may also be pierced when the parent corporation and the subsidiary operated with integrated resources in pursuit of a "single business purpose." This theory can be established upon proof that the subsidiary's affairs are conducted so as to make it merely an instrumentality, agency, conduit or adjunct of another corporation. (*Towa-Towa Co., Ltd. v, Morgan Creek Productions, Inc.,* (2013) 217 Cal.App.4th 1096, 1107.)

Here, Plaintiffs have alleged an abundance of facts that support piercing the corporate veil and holding EIX liable for the wrongful conduct of SCE. (*See* Individual Plaintiffs' Master Complaint at ¶ 118–149; Public Entity Plaintiffs' Master Complaint at ¶ 26.) Public records establish that every EIX director is a director of SCE, and with the exception of SCE President and CEO Steve Powell, every SCE director is an EIX director. (*See* Individual Plaintiffs' Master Complaint at ¶¶ 120, 121; Public Entity Plaintiffs' Master Complaint at ¶ 26.) Notably, EIX admits in its 2025 Proxy Statement that the EIX Board provides "oversight and guidance" on "our wildfire mitigation efforts." (Proxy Statement at ii.) Moreover, the Proxy Statement shows that the annual incentive awards to senior executives at EIX and SCE are inextricably intertwined. (Proxy Statement at 34–35 (showing that executive compensation for both entities is tied to "company performance"); *id.* at 37 (showing that 55% of SCE and 50% of EIX executive annual incentive goals tied to safety and resiliency goals); *id* at 41 (listing SCE and EIX senior executive incentive award factors). The discovery sought regarding the Defendants' annual incentive programs are directly relevant to Plaintiffs' claims of alter ego, as well as to Plaintiffs' other liability theories against EIX and SCE. In addition, such relevant evidence should be produced so that Plaintiff may utilize it in response to EIX's now pending Motion for Summary Judgment.

3. SCE's Other Objections Lack Merit.

SCE continues to insist that somehow the attorney-client privilege would attach to *some* documents relating to the Defendants' annual incentive awards to its executives. In the unlikely event this is actually the case, this issue can be addressed by SCE providing a privilege log. SCE also continues to object that Plaintiffs' requests improperly assert that SCE "missed safety goals". However, as further discussed in Plaintiffs' Motion and in this Reply, *supra*, EIX and SCE's own documents establish that safety goals were missed. Lastly, SCE continues to object that Plaintiffs' requests are not "reasonably particularized" and claims that Plaintiffs have insufficiently identified the documents that they request. However, SCE is undoubtedly well aware of the documents that relate to its annual incentive awards paid to EIX and SCE executives, and all such documents should be ordered to be produced.

III. CONCLUSION

The thrust of Plaintiffs' punitive damages allegations is that SCE and EIX prioritized profits over consumer safety. The Requests at issue in this motion are reasonably calculated to lead to the discovery of admissible evidence on this topic. Plaintiffs have established that the documents are relevant under the standards for discoverability of documents, and the objections to production are not persuasive. For the reasons described in the Motion and this Reply, Plaintiffs respectfully ask the Court to grant the motion.

Dated: December 15, 2025

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