

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No.: 8:23-cv-00734 FWS (ADSx) Date: August 26, 2025

Title: Jasibel Canchola, et al. v. Allstate Insurance Company

Present: The Honorable Autumn D. Spaeth, United States Magistrate Judge

Kristee Hopkins

Deputy Clerk

None Reported

Court Reporter / Recorder

Attorney(s) Present for Plaintiff(s):
None Present

Attorney(s) Present for Defendant(s):
None Present

**Proceedings: (IN CHAMBERS) ORDER GRANTING IN PART AND
DENYING IN PART DEFENDANT’S MOTION FOR LEAVE
TO TAKE DISCOVERY OF CLASS MEMBERS
(Dkt. No. 225)**

I. INTRODUCTION

Before the Court is Defendant’s Motion for Leave to Take Discovery of Class Members (the “Motion”). (Dkt. No. 225.) Defendant seeks leave to (1) depose up to 30 absent class members and serve 14 corresponding document requests on them, and (2) serve four document requests on all absent class members. (*Id.*) The Motion is supported by a Joint Stipulation as required by Local Rule 37. (Dkt. No. 225-1 (“JS”).) The Parties filed supplemental briefs. (Dkt. Nos. 230, 233.) The Court held a hearing on the Motion on July 18, 2025. (Dkt. Nos. 236, 239.) For the reasons discussed below, the Motion is granted in part and denied in part.

II. RELEVANT BACKGROUND

Defendant sells property, casualty, and life insurance in California through independent and exclusive agents. (Dkt. No. 41, First Am. Compl. (“FAC”), ¶¶ 2-3, 36-37, 40-47.) Named Plaintiffs and class members work or worked as Allstate exclusive agents in California. (*Id.* at ¶¶ 23-26.) Named Plaintiffs, individually and on behalf of class members, assert a single cause of action for unreimbursed business expenses under California Labor Code § 2802. (*Id.* at ¶¶ 95-96, 104-07.) On March 28, 2025, the

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District Court certified the following class: All individuals who signed an Allstate R3001, R3100A, R3001S, or R3001C Exclusive Agency Agreement and who worked as an Allstate exclusive agent in the State of California during the class period. (Dkt. No. 159 at 28.) On June 13, 2025, the District Court approved the class notice. (Dkt. No. 207.) At the hearing on the Motion, the Parties represented the class notice had not been issued yet. (Dkt. No. 239 at 9.) There is one fact discovery period in this case. (Dkt. No. 187.) The fact discovery cut-off is October 10, 2025. (*Id.*) As of the date of this Order, trial is not bifurcated between liability and damages. (Dkt. No. 231.)

III. DISCUSSION

Defendant seeks leave to take discovery from absent class members in the following forms: (1) depose up to 30 absent class members and serve 14 corresponding document requests on them, and (2) serve 4 document requests on all absent class members. (JS at 11-18.) In general, Defendant asserts this discovery is necessary to rebut liability and class members' potential damages. (*Id.*) Defendant offers to wait until the opt-out period ends before engaging in any absent class member discovery. (*Id.* at 8; Dkt. No. 233 at 7; Dkt. No. 239 at 9.) Plaintiffs contend Defendant fails to meet its heavy burden to show discovery from absent class members is necessary and that any of the discovery Defendant seeks will discourage or intimidate absent class members from participating in the class. (JS at 27-38.)

A. LEGAL STANDARD

District courts “have discretion to allow limited discovery from absent class members if the particular circumstances of a specific case justify it.” *Briseno v. ConAgra Foods, Inc.*, 844 F.3d 1131, n. 10 (9th Cir. 2017) (citing William B. Rubenstein, Newberg on Class Actions § 9:13 (5th ed. 2013)). Some courts permit discovery of absent class members where the proponent of the discovery establishes that (1) the discovery is not designed to take undue advantage of class members or to reduce the size of the class, (2) the discovery is necessary, (3) responding to the discovery requests would not require the assistance of counsel, and (4) the discovery seeks information that is not already known by the proponent. *Clark v. Universal Builders, Inc.*, 501 F.2d 324, 340–42 (7th Cir. 1974). Other courts allow discovery of absent class members only “where a strong showing is made that the information sought (1) is not sought with the purpose

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or effect of harassment or altering membership of the class; (2) is directly relevant to common questions and unavailable from the representative parties; and (3) is necessary at trial of issues common to the class.” McCarthy v. Paine Webber Grp., Inc., 164 F.R.D. 309, 313 (D. Conn. 1995) (citations omitted). The court in Arrendondo succinctly summarizes the factors courts typically apply as follows: “discovery from absent class members may be permitted when [(1)] reasonably necessary, [(2)] not conducted for an improper purpose, and [(3)] not unduly burdensome in the context of the case and its issues.” Arrendondo v. Delano Farms Co., No. 1:09-cv-1247 MJS, 2014 WL 5106401, at *5 (E.D. Cal. Oct. 10, 2014).

B. DEPOSITIONS AND CORRESPONDING DOCUMENT REQUESTS

Defendant seeks to depose up to 30 absent class members and serve 14 corresponding document requests on them. (JS at 11-16.) Defendant does not identify or propose a process for selecting the particular deponents or identify deposition topics. Defendant proposes 14 document requests seeking extensive documentation related to the absent class members’ exclusive agencies. (Id. at 47-51.) As an example, the first of the 14 document requests seeks:

(1) DOCUMENTS RELATING TO any loans, lines of credit, monetary advances, or other borrowing or credit arrangement for which YOU applied or which received on behalf of YOUR ALLSTATE AGENCY, including any paycheck protection program (PPP) loan or any similar loan, lines of credit, monetary advances, or other borrowing or credit arrangement offered by any federal, state, or local government agency. For each such loan, lines of credit, monetary advances, or other borrowing or credit arrangement documents responsive to this REQUEST include, but are not limited to: (1) the application for the loan, (2) the grant of the loan, (3) the denial of the loan, (4) any requests for information sought from YOU in connection with the consideration of the loan, (5) the use of the proceeds of the loan in YOUR ALLSTATE AGENCY, and/or (6) the forgiveness of the loan.

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(Id. at 47.) The remaining requests seek extensive documentation related to staffing, contracts with third-parties, marketing and advertising materials, business formation documents, lease or deed documents, negotiations related to an “Allstate book of business,” and detailed financial records. (Id. at 47-51.)

Defendant asserts this discovery is necessary to defend against Plaintiffs’ allegations that “(1) Allstate was their employer because it had the right to control their work and (2) they incurred necessary and reasonable business expenses Allstate was required to (but did not) reimburse if they were employees.” (JS at 11.) Defendant further argues it is entitled to “depone [up to 30 absent class members] to ascertain these expenses, the reasons agents elected to incur them, and whether Allstate asked for or was provided information about these expenses.” (Id. at 13.) Defendant contends the discovery cannot be obtained through named Plaintiffs alone because named Plaintiffs do not know what expenses other class members incurred. (Id. at 11.) Defendant argues deposing up to 30 absent class members “strikes a reasonable balance between the burden on class members and their counsel with the risk of a smaller number yielding biased or skewed results.” (Id. at 15.)

Plaintiffs argue Defendant fails to meet its heavy burden to justify this discovery. (JS at 30-40.) Plaintiffs argue Defendant had access to the information it seeks prior to class certification. (Id. at 31.) In addition, Plaintiffs argue Defendant fails to show it does not have the information it seeks because Defendant studies exclusive agent expenses. (Id. at 36-38.) Plaintiffs also point to the declaration of Defendant’s employee, which discusses her knowledge of the expenses exclusive agents incur. (Id.; see Dkt. No. 225-37, Ex. 18, Sonja Renner Decl.) Plaintiffs also contend Defendant’s Borello test arguments were rejected in the order granting class certification. (Id. at 33-36.) Plaintiffs further assert requiring absent class members, some of whom still work with Defendant and can be terminated at-will, to be deposed and produce documents will discourage or intimidate class participation. (Id. at 38.) Further, Plaintiffs argue the number of absent class members Defendant seeks to depose makes no sense and is unsupported. (Id. at 39-40.)

The Court agrees with Plaintiffs that Defendant has not met its heavy burden to show depositions are appropriate at this time. First, Defendant fails to show the

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depositions of absent class members and 14 corresponding document requests are necessary. “Courts have held that discovery from absent class members is permitted when it is ‘not readily obtainable from the representative parties or other sources.’” Aldapa v. Fowler Packing Co., Inc., No. 1:15-cv-00420-DAD-SAB, 2019 WL 2635947, at *4 (E.D. Cal. June 27, 2019) (quoting Tierno v. Rite Aid Corp., No. C 05-02520 TEH, 2008 WL 2705089, at *6 (N.D. Cal. July 8, 2008)). Defendant fails to show it does not have some of the information it seeks through business plans, supervisory communications, or other available means. (See Dkt. No. 225-37, Ex. 18, Sonja Renner Decl.; see also JS 12-13 (discussing publicly available information regarding potential class member’s staffing).) Defendant also fails to show it could not have obtained the information in its pre-certification communications with class members. See also Tierno, 2008 WL 2705089, at *6 (holding proponent seeking to depose absent class member fails to show necessity where proponent had access to absent class members for nearly a year and a half while the class was being certified). Defendant’s necessity arguments are also unpersuasive in the context of this case where Plaintiffs intend to establish liability based on Defendant’s written agreements with class members. Compare Burgess v. Tesoro Refining and Marketing Co., No. CV 10-5870-VBF (PLAx), 2011 WL 13217362, at *2 (C.D. Cal. July 5, 2011) (holding proponent seeking to depose absent class members fails to show necessity where it seeks to show different experiences among class members to contradict alleged uniform policies) with Arredondo, 2014 WL 5106401, at *3 (permitting depositions of absent class members where plaintiffs intend to establish liability through company practices rather than a company policy). As such, Defendant’s asserted reasons are insufficient to demonstrate necessity, and this factor heavily weighs against permitting this discovery.

Second, Defendant’s deposition requests are denied at this time, because some class members still work with Defendant. Courts are more hesitant to permit depositions of class members where the nature of a working relationship could result in diminished class participation. See Burgess, 2011 WL 13217362, at *2; Aldapa, 2019 WL 1047492, at *14 (recognizing “depositions of absent class members can have a chilling effect on their willingness to be part of the class, especially where the deponents are employees”). This concern is acute here where Defendant has not identified or proposed a process for selecting which absent class members will be deposed. In the absence of a

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process, the Court shares Plaintiffs’ concern that deposing class members and requiring extensive document production may have a chilling effect on class members who have an at-will working relationship with Defendant. As such, this factor weighs against permitting the depositions and extensive document discovery Defendant seeks.

Third, Defendant fails to show this discovery is not unduly burdensome. The burden to justify depositions of absent class members is “even heavier” than other discovery devices. Baldwin & Flynn v. Nat’l Safety Assocs., 149 F.R.D. 598, 600 (N.D. Cal. 1993). Given Defendant fails to show the depositions and extensive document discovery it seeks are necessary, the burden of such discovery on absent class members is not justified.

Accordingly, the Motion to depose up to 30 class members and serve the 14 proposed document requests on them is denied without prejudice.

C. “EXPENSE-RELATED” DOCUMENT REQUESTS

Defendant describes the four document requests it seeks to serve on all absent class members as “expense-related.” (JS at 12.) In reality, the four proposed document requests are much broader. (*Id.* at 52.) Specifically, the four document requests seek the following from each absent class member:

- (1) All documents (including receipts) RELATING TO any business expense over \$1,000 in total that YOU incurred for which YOU were not reimbursed by ALLSTATE from March 22, 2019, to present, including any DOCUMENTS RELATING TO YOUR determination of whether an incurred business expense was a direct consequence of YOUR performance of YOUR job duties.
- (2) For each year that YOU operated an ALLSTATE agency from March 22, 2019, to present, a general ledger or similar statement showing income and expenses, for each year, of YOUR ALLSTATE AGENCY.
- (3) All tax returns YOU filed with the California Franchise Tax Board and the United States Treasury for the ALLSTATE agency YOU operated, including all schedules and related forms, during the

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time period for which YOU are seeking business expenses in this lawsuit.

(4) All documents evidencing reimbursement or payment to YOU of any expense for which you seek reimbursement in this case, including forgiven PPP loans, purchase of assets in the sale of an economic interest, or otherwise.

(Id. at 52.)

Defendant argues it “does not possess critical information about the existence, necessity, and reasonableness of all class members’ expenses.” (JS at 17.) Defendant argues there is significant variation in the actual expenses the named Plaintiffs seek to be reimbursed. (Id. at 17-18 (stating that Plaintiff Souza seeks to be reimbursed for expenses amounting to \$1,934,587.95 while Plaintiff Canchola seeks \$132,547.68).) Given this variation, Defendant contends there is “no way to determine whether and how much—if anything—Allstate potentially owes to the other class members without evidence from each class member.” (Id. at 18.) Defendant argues only the class members have information regarding the actual expenses for which they seek to be reimbursed. (Id.) Defendant contends the expenses class members incurred and why “must be worked out during the liability phase as they are the cornerstone of Plaintiffs’ reimbursement claim.” (Id. at 17.) Defendant further asserts there is one fact discovery period and one trial in this case. (Id. at 17; Dkt. No. 239 at 4-6.) As such, Defendant contends it will not know the damages class members seek prior to trial without this discovery. (Id.) Defendant agrees to wait until after the opt-out period expires to serve any permitted discovery. (JS at 8; Dkt. No. 233 at 7; Dkt. No. 239 at 9.)

Plaintiffs argue Defendant’s four document requests are premature because the issues of individualized damages should be addressed in a separate damages phase. (Id. at 40-41.) Plaintiffs contend requiring absent class members to respond to extensive document discovery prior to a finding of liability is improper because it has the effect of obliging absent class members to opt in. (Id.) Plaintiffs also assert the four document requests should not be permitted for the same reasons they contend the depositions and corresponding document requests are improper. (Id.)

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The Court agrees with Defendant that an “expense-related” document request is appropriate in the context of this case and its issues. However, the four document requests, as drafted, seek far more than “expense-related” documents. Defendant does not explain how class members’ income, tax returns, and reimbursement from third-party sources are “expense-related.” Defendant also does not explain why the timeframe for the four requests goes beyond the class period. Defendant fails to show how these documents are necessary to ascertain the expenses for which class members seek reimbursement from Defendant in this action. As such, the four document requests, as drafted, seek more than Defendant shows is necessary.

In contrast, Defendant establishes as necessary only a narrow document request seeking the expenses for which class members seek reimbursement in this case. Defendant establishes it cannot ascertain the damages class members seek without the individualized expenses each class member asks Defendant to reimburse. (JS 16-17.) Plaintiffs concede individualized evidence of each class members’ expenses for which they seek reimbursement are necessary to establish damages. (Dkt. No. 239 at 17-18.) Further, the procedural context of this case underscores the necessity of narrow expense-related document discovery at this time. Trial in this case is not bifurcated between liability and damages as of the date of this Order. (Dkt. No. 231.) Moreover, there is one fact discovery period, which is approaching its end. (Dkt. No. 187.) Given the context of this case and its issues, it is reasonable to require class members to produce the expenses for which they seek reimbursement from Defendant.

Accordingly, the Motion to serve the four proposed document requests on all absent class members is denied. The Motion to serve an expense-related document request is granted. After the opt-out period expires, Defendant may serve a document request seeking the expenses for which class members seek reimbursement in this action.

IV. CONCLUSION

For these reasons, the Motion is granted in part and denied in part.

IT IS SO ORDERED.

Initials of Clerk kh