

1 THE HONORABLE JOHN C. COUGHENOUR  
2  
3  
4  
5  
6

7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT SEATTLE

10 REBECCA BARRICK,

11 Plaintiff,

12 v.

13 AMERICAN AIRLINES, INC.,

14 Defendant.

CASE NO. C16-5957-JCC

15 ORDER DENYING  
16 DEFENDANT'S MOTION FOR A  
17 PROTECTIVE ORDER AND  
18 GRANTING PLAINTIFF'S  
19 MOTION TO AMEND

20 This matter comes before the Court on Defendant American Airline's motion for a  
21 protective order (Dkt. No. 35) and Plaintiff Rebecca Barrick's motion to amend (Dkt. No. 33).  
22 Having thoroughly considered the parties' briefing and the relevant record, the Court finds oral  
23 argument unnecessary and hereby DENIES the motion for a protective order and GRANTS the  
24 motion to amend for the reasons explained herein.

25 **I. BACKGROUND**

26 On an American Airlines flight from Seattle to Philadelphia, Plaintiff's chest was burned  
27 by a bag of dry ice. (Dkt. No. 31 at ¶¶ 6–10.) After, she filed this negligence and gross  
28 negligence action against Defendant. (See Dkt. No. 31.) Defendant responded to her amended  
29 complaint, admitting that it is “liable for all of Ms. Barrick’s proximately caused damages.”  
(Dkt. No. 39 at 2; *see also* Dkt. No. 32 at ¶¶ 10, 14, 17, 18, 22, 23, 25.) Defendant has filed a

ORDER DENYING DEFENDANT'S MOTION  
FOR A PROTECTIVE ORDER AND GRANTING  
PLAINTIFF'S MOTION TO AMEND

PAGE - 1

1 motion for a protective order to limit Plaintiff's discovery requests to relevant information about  
2 damages. (Dkt. No. 35.) Plaintiff also filed a motion to amend her complaint a second time. (Dkt.  
3 No. 33.)

4 **II. DEFENDANT'S MOTION FOR A PROTECTIVE ORDER**

5 "Parties may obtain discovery regarding any nonprivileged matter that is relevant to any  
6 party's claim or defense and proportional to the needs of the case." Fed. R. Civ. P. 26 (b)(1).  
7 However, "the court must limit the frequency or extent of discovery [if] . . . the proposed  
8 discovery is outside the scope permitted by Rule 26(b)(1)." Fed. R. Civ. P. 26 (b)(2)(C). "The  
9 court may, for good cause, issue an order to protect a party from . . . undue burden or expense."  
10 Fed. R. Civ. P. 26 (c)(1). When a defendant admits liability for all damages caused to a plaintiff,  
11 the court may limit discovery to damages. *See Broncel v. H & R Transp., Ltd.*, 2011 WL 319822,  
12 (E.D. Cal. Jan. 28, 2011) (holding that plaintiff was not entitled to depose defendant Wilson  
13 because the defendants had already admitted liability); *Ayat v. Societe Air France*, 2008 WL  
14 114936, (N.D. Cal. Jan. 8, 2008) (holding that further discovery into liability was not warranted  
15 because the defendant did not contest liability and only asserted three affirmative defenses, all  
16 related to damages).

17 Here, Defendant seeks a protective order to limit discovery to damages. (Dkt. No. 35.)  
18 However, Plaintiff maintains that she is entitled to more expansive discovery because Defendant  
19 "has not admitted liability to most of Plaintiff's claims, and has expressly denied most of the  
20 offending actions." (Dkt. No. 37 at 4.) Plaintiff's argument is persuasive because Defendant has  
21 only admitted to liability for all of Plaintiff's *proximately caused* damages. (*See* Dkt. Nos. 32,  
22 35, 41.) While Defendant's admission is helpful to Plaintiff, there is some vagueness as to the  
23 admission. Defendant admits to liability for *proximately caused* damages, but does not stipulate  
24 it is in fact the cause of such damages. If Plaintiff is not entitled to discover the circumstances  
25 that led to her injury, she would be at a significant disadvantage in this litigation. While this  
26

1 causation issue is unresolved, the Court will prudently leave discovery open. Defendant's motion  
2 for a protective order limiting discovery to damages is DENIED.<sup>1</sup>

3 **III. PLAINTIFF'S MOTION TO AMEND**

4 The Court is afforded discretion and "should freely give leave [to amend] when justice so  
5 requires." Fed. R. Civ. P. 15(a)(2). When deciding whether leave should be granted, "[f]ive  
6 factors are taken into account . . . bad faith, undue delay, prejudice to the opposing party, futility  
7 of amendment, and whether the plaintiff has previously amended the complaint." *Johnson v.*  
8 *Buckley*, 356 F.3d 1067, 1077 (9th Cir. 2004).

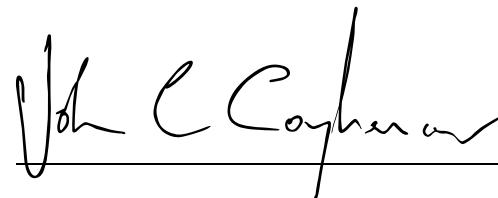
9 Plaintiff's motion to amend builds on the issue of causation, and thus is not futile. The  
10 amendment is minimal, but the proposed complaint does allege with more specificity the types of  
11 harm suffered by Plaintiff, specifically emotional damages. (See Dkt. No. 33-3 at ¶ 26.) This  
12 newly alleged harm demonstrates a need for more expansive discovery into its cause. Plaintiff  
13 has previously amended her complaint, but the Court concludes the proposed amendment is not  
14 futile, nor is it unfair. Thus, the Court GRANTS Plaintiff's motion to amend her complaint.

15 **IV. CONCLUSION**

16 For the foregoing reasons, Plaintiff's motion to amend (Dkt. No. 33) is GRANTED, and  
17 Defendant's motion for a protective order (Dkt. No. 35) is DENIED. Plaintiff is ORDERED to  
18 file her second amended complaint (Dkt. No. 33-3) within 7 days of this order.

19 DATED this 8th day of August 2017.

20  
21  
22  
23  
24



---

25 John C. Coughenour  
26 UNITED STATES DISTRICT JUDGE

27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58  
59  
60  
61  
62  
63  
64  
65  
66  
67  
68  
69  
70  
71  
72  
73  
74  
75  
76  
77  
78  
79  
80  
81  
82  
83  
84  
85  
86  
87  
88  
89  
90  
91  
92  
93  
94  
95  
96  
97  
98  
99  
100  
101  
102  
103  
104  
105  
106  
107  
108  
109  
110  
111  
112  
113  
114  
115  
116  
117  
118  
119  
120  
121  
122  
123  
124  
125  
126  
127  
128  
129  
130  
131  
132  
133  
134  
135  
136  
137  
138  
139  
140  
141  
142  
143  
144  
145  
146  
147  
148  
149  
150  
151  
152  
153  
154  
155  
156  
157  
158  
159  
160  
161  
162  
163  
164  
165  
166  
167  
168  
169  
170  
171  
172  
173  
174  
175  
176  
177  
178  
179  
180  
181  
182  
183  
184  
185  
186  
187  
188  
189  
190  
191  
192  
193  
194  
195  
196  
197  
198  
199  
200  
201  
202  
203  
204  
205  
206  
207  
208  
209  
210  
211  
212  
213  
214  
215  
216  
217  
218  
219  
220  
221  
222  
223  
224  
225  
226  
227  
228  
229  
230  
231  
232  
233  
234  
235  
236  
237  
238  
239  
240  
241  
242  
243  
244  
245  
246  
247  
248  
249  
250  
251  
252  
253  
254  
255  
256  
257  
258  
259  
260  
261  
262  
263  
264  
265  
266  
267  
268  
269  
270  
271  
272  
273  
274  
275  
276  
277  
278  
279  
280  
281  
282  
283  
284  
285  
286  
287  
288  
289  
290  
291  
292  
293  
294  
295  
296  
297  
298  
299  
300  
301  
302  
303  
304  
305  
306  
307  
308  
309  
310  
311  
312  
313  
314  
315  
316  
317  
318  
319  
320  
321  
322  
323  
324  
325  
326  
327  
328  
329  
330  
331  
332  
333  
334  
335  
336  
337  
338  
339  
3310  
3311  
3312  
3313  
3314  
3315  
3316  
3317  
3318  
3319  
3320  
3321  
3322  
3323  
3324  
3325  
3326  
3327  
3328  
3329  
3330  
3331  
3332  
3333  
3334  
3335  
3336  
3337  
3338  
3339  
3340  
3341  
3342  
3343  
3344  
3345  
3346  
3347  
3348  
3349  
3350  
3351  
3352  
3353  
3354  
3355  
3356  
3357  
3358  
3359  
3360  
3361  
3362  
3363  
3364  
3365  
3366  
3367  
3368  
3369  
33610  
33611  
33612  
33613  
33614  
33615  
33616  
33617  
33618  
33619  
33620  
33621  
33622  
33623  
33624  
33625  
33626  
33627  
33628  
33629  
33630  
33631  
33632  
33633  
33634  
33635  
33636  
33637  
33638  
33639  
33640  
33641  
33642  
33643  
33644  
33645  
33646  
33647  
33648  
33649  
33650  
33651  
33652  
33653  
33654  
33655  
33656  
33657  
33658  
33659  
33660  
33661  
33662  
33663  
33664  
33665  
33666  
33667  
33668  
33669  
33670  
33671  
33672  
33673  
33674  
33675  
33676  
33677  
33678  
33679  
33680  
33681  
33682  
33683  
33684  
33685  
33686  
33687  
33688  
33689  
33690  
33691  
33692  
33693  
33694  
33695  
33696  
33697  
33698  
33699  
336100  
336101  
336102  
336103  
336104  
336105  
336106  
336107  
336108  
336109  
336110  
336111  
336112  
336113  
336114  
336115  
336116  
336117  
336118  
336119  
336120  
336121  
336122  
336123  
336124  
336125  
336126  
336127  
336128  
336129  
336130  
336131  
336132  
336133  
336134  
336135  
336136  
336137  
336138  
336139  
336140  
336141  
336142  
336143  
336144  
336145  
336146  
336147  
336148  
336149  
336150  
336151  
336152  
336153  
336154  
336155  
336156  
336157  
336158  
336159  
336160  
336161  
336162  
336163  
336164  
336165  
336166  
336167  
336168  
336169  
336170  
336171  
336172  
336173  
336174  
336175  
336176  
336177  
336178  
336179  
336180  
336181  
336182  
336183  
336184  
336185  
336186  
336187  
336188  
336189  
336190  
336191  
336192  
336193  
336194  
336195  
336196  
336197  
336198  
336199  
336200  
336201  
336202  
336203  
336204  
336205  
336206  
336207  
336208  
336209  
336210  
336211  
336212  
336213  
336214  
336215  
336216  
336217  
336218  
336219  
336220  
336221  
336222  
336223  
336224  
336225  
336226  
336227  
336228  
336229  
336230  
336231  
336232  
336233  
336234  
336235  
336236  
336237  
336238  
336239  
336240  
336241  
336242  
336243  
336244  
336245  
336246  
336247  
336248  
336249  
336250  
336251  
336252  
336253  
336254  
336255  
336256  
336257  
336258  
336259  
336260  
336261  
336262  
336263  
336264  
336265  
336266  
336267  
336268  
336269  
336270  
336271  
336272  
336273  
336274  
336275  
336276  
336277  
336278  
336279  
336280  
336281  
336282  
336283  
336284  
336285  
336286  
336287  
336288  
336289  
336290  
336291  
336292  
336293  
336294  
336295  
336296  
336297  
336298  
336299  
336300  
336301  
336302  
336303  
336304  
336305  
336306  
336307  
336308  
336309  
336310  
336311  
336312  
336313  
336314  
336315  
336316  
336317  
336318  
336319  
336320  
336321  
336322  
336323  
336324  
336325  
336326  
336327  
336328  
336329  
336330  
336331  
336332  
336333  
336334  
336335  
336336  
336337  
336338  
336339  
336340  
336341  
336342  
336343  
336344  
336345  
336346  
336347  
336348  
336349  
336350  
336351  
336352  
336353  
336354  
336355  
336356  
336357  
336358  
336359  
336360  
336361  
336362  
336363  
336364  
336365  
336366  
336367  
336368  
336369  
336370  
336371  
336372  
336373  
336374  
336375  
336376  
336377  
336378  
336379  
336380  
336381  
336382  
336383  
336384  
336385  
336386  
336387  
336388  
336389  
336390  
336391  
336392  
336393  
336394  
336395  
336396  
336397  
336398  
336399  
336400  
336401  
336402  
336403  
336404  
336405  
336406  
336407  
336408  
336409  
336410  
336411  
336412  
336413  
336414  
336415  
336416  
336417  
336418  
336419  
336420  
336421  
336422  
336423  
336424  
336425  
336426  
336427  
336428  
336429  
336430  
336431  
336432  
336433  
336434  
336435  
336436  
336437  
336438  
336439  
336440  
336441  
336442  
336443  
336444  
336445  
336446  
336447  
336448  
336449  
336450  
336451  
336452  
336453  
336454  
336455  
336456  
336457  
336458  
336459  
336460  
336461  
336462  
336463  
336464  
336465  
336466  
336467  
336468  
336469  
336470  
336471  
336472  
336473  
336474  
336475  
336476  
336477  
336478  
336479  
336480  
336481  
336482  
336483  
336484  
336485  
336486  
336487  
336488  
336489  
336490  
336491  
336492  
336493  
336494  
336495  
336496  
336497  
336498  
336499  
336500  
336501  
336502  
336503  
336504  
336505  
336506  
336507  
336508  
336509  
336510  
336511  
336512  
336513  
336514  
336515  
336516  
336517  
336518  
336519  
336520  
336521  
336522  
336523  
336524  
336525  
336526  
336527  
336528  
336529  
336530  
336531  
336532  
336533  
336534  
336535  
336536  
336537  
336538  
336539  
336540  
336541  
336542  
336543  
336544  
336545  
336546  
336547  
336548  
336549  
336550  
336551  
336552  
336553  
336554  
336555  
336556  
336557  
336558  
336559  
336560  
336561  
336562  
336563  
336564  
336565  
336566  
336567  
336568  
336569  
336570  
336571  
336572  
336573  
336574  
336575  
336576  
336577  
336578  
336579  
336580  
336581  
336582  
336583  
336584  
336585  
336586  
336587  
336588  
336589  
336590  
336591  
336592  
336593  
336594  
336595  
336596  
336597  
336598  
336599  
336600  
336601  
336602  
336603  
336604  
336605  
336606  
336607  
336608  
336609  
336610  
336611  
336612  
336613  
336614  
336615  
336616  
336617  
336618  
336619  
336620  
336621  
336622  
336623  
336624  
336625  
336626  
336627  
336628  
336629  
336630  
336631  
336632  
336633  
336634  
336635  
336636  
336637  
336638  
336639  
336640  
336641  
336642  
336643  
336644  
336645  
336646  
336647  
336648  
336649  
336650  
336651  
336652  
336653  
336654  
336655  
336656  
336657  
336658  
336659  
336660  
336661  
336662  
336663  
336664  
336665  
336666  
336667  
336668  
336669  
3366610  
3366611  
3366612  
3366613  
3366614  
3366615  
3366616  
3366617  
3366618  
3366619  
3366620  
3366621  
3366622  
3366623  
3366624  
3366625  
3366626  
3366627  
3366628  
3366629  
3366630  
3366631  
3366632  
3366633  
3366634  
3366635  
3366636  
3366637  
3366638  
3366639  
3366640  
3366641  
3366642  
3366643  
3366644  
3366645  
3366646  
3366647  
3366648  
3366649  
3366650  
3366651  
3366652  
3366653  
3366654  
3366655  
3366656  
3366657  
3366658  
3366659  
3366660  
3366661  
3366662  
3366663  
3366664  
3366665  
3366666  
3366667  
3366668  
3366669  
33666610  
33666611  
33666612  
33666613  
33666614  
33666615  
33666616  
33666617  
33666618  
33666619  
33666620  
33666621  
33666622  
33666623  
33666624  
33666625  
33666626  
33666627  
33666628  
33666629  
33666630  
33666631  
33666632  
33666633  
33666634  
33666635  
33666636  
33666637  
33666638  
33666639  
33666640  
33666641  
33666642  
33666643  
33666644  
33666645  
33666646  
33666647  
33666648  
33666649  
33666650  
33666651  
33666652  
33666653  
33666654  
33666655  
33666656  
33666657  
33666658  
33666659  
33666660  
33666661  
33666662  
33666663  
33666664  
33666665  
33666666  
33666667  
33666668  
33666669  
336666610  
336666611  
336666612  
336666613  
336666614  
336666615  
336666616  
336666617  
336666618  
336666619  
336666620  
336666621  
336666622  
336666623  
336666624  
336666625  
336666626  
336666627  
336666628  
336666629  
336666630  
336666631  
336666632  
336666633  
336666634  
336666635  
336666636  
336666637  
336666638  
336666639  
336666640  
336666641  
336666642  
336666643  
336666644  
336666645  
336666646  
336666647  
336666648  
336666649  
336666650  
336666651  
336666652  
336666653  
336666654  
336666655  
336666656  
336666657  
336666658  
336666659  
336666660  
336666661  
336666662  
336666663  
336666664  
336666665  
336666666  
336666667  
336666668  
336666669  
3366666610  
3366666611  
3366666612  
3366666613  
3366666614  
3366666615  
3366666616  
3366666617  
3366666618  
3366666619  
3366666620  
3366666621  
3366666622  
3366666623  
3366666624  
3366666625  
3366666626  
3366666627  
3366666628  
3366666629  
3366666630  
3366666631  
3366666632  
3366666633  
3366666634  
3366666635  
3366666636  
3366666637  
3366666638  
3366666639  
3366666640  
3366666641  
3366666642  
3366666643  
3366666644  
3366666645  
3366666646  
3366666647  
3366666648  
3366666649  
3366666650  
3366666651  
3366666652  
3366666653  
3366666654  
3366666655  
3366666656  
3366666657  
3366666658  
3366666659  
3366666660  
3366666661  
3366666662  
3366666663  
3366666664  
3366666665  
3366666666  
3366666667  
3366666668  
3366666669  
33666666610  
33666666611  
33666666612  
33666666613  
33666666614  
33666666615  
33666666616  
33666666617  
33666666618  
33666666619  
33666666620  
33666666621  
33666666622  
33666666623  
33666666624  
33666666625  
33666666626  
33666666627  
33666666628  
33666666629  
33666666630  
33666666631  
33666666632  
33666666633  
33666666634  
33666666635  
33666666636  
33666666637  
33666666638  
33666666639  
33666666640  
33666666641  
33666666642  
33666666643  
33666666644  
33666666645  
33666666646  
33666666647  
33666666648  
33666666649  
33666666650  
33666666651  
33666666652  
33666666653  
33666666654  
33666666655  
33666666656  
33666666657  
33666666658  
33666666659  
33666666660  
33666666661  
33666666662  
33666666663  
33666666664  
33666666665  
33666666666  
33666666667  
33666666668  
33666666669  
336666666610  
336666666611  
336666666612  
336666666613  
336666666614  
336666666615  
336666666616  
336666666617  
336666666618  
336666666619  
336666666620  
336666666621  
336666666622  
3

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

ORDER DENYING DEFENDANT'S MOTION  
FOR A PROTECTIVE ORDER AND GRANTING  
PLAINTIFF'S MOTION TO AMEND  
PAGE - 4