PROPOSED TENTATIVE

On September 30, 2021, plaintiff Nidia Chavez (plaintiff) filed a complaint on standard Judicial Council forms against defendants Walmart, Inc., Coca-Cola Bottling, LLC (Coca-Cola), and The Martin Brower Company, LLC (Brower) for general negligence and premises liability. It is alleged that on October 5, 2019, while plaintiff was on property located at 701 West Central Avenue, Lompoc (owned, operated, managed, maintained, inspected, repaired, planned and possessed by defendants), plaintiff slipped and fell as a result of defendants' negligence, causing severe injuries. Defendants Coca-Cola and Brower filed a joint answer on March 1, 2022. On March 6, 2025, plaintiff dismissed defendant Walmart, Inc., as a party, and dismissed the premises liability cause of action against Coca-Cola and Brower. On April 5, 2025, plaintiff dismissed Brower as a defendant, leaving only one cause of action for negligence against defendant Coca Cola (hereafter, Coca-Cola or defendant). According to her complaint, plaintiff is asking for the following damages: lost wages, loss of use or property, hospital and medical expenses, general damages, property damage, and loss of earning capacity. Trial is scheduled for April 20, 2026.

On May 21, 2025, defendant filed a motion to compel plaintiff's further responses to Requests for Admission (RFAs), pursuant to Code of Civil Procedure section 2033.290 (all further statutory references are to the Code of Civil Procedure unless otherwise indicated). According to defense counsel Kristina M. Pfeifer, in her declaration filed on June 2, 2025, defendant served its "Request for Admissions, Set Two" on plaintiff on February 28, 2025. There were four (4) RFAs (Nos. 5, 6, 7, and 8), and plaintiff objected to each one with similar objections only, based on relevance and privacy, in an unverified response served electronically on March 28, 2025 (verifications do not have to be provided for objection-only responses). Plaintiff filed opposition on June 12, 2025. Plaintiff on June 16, 2025, filed a "supplemental memorandum of points and authorities." Defendant filed a reply on June 25, 2025. On June 26, 2026, plaintiff filed a "Response to Defendant's Reply . . . ." All briefing has been reviewed.

1) *Legal Background*

A party to a civil action may propound a written request that another party "admit ... the truth of specified matters of fact, opinion relating to fact, or application of law to fact." (§ 2033.010.) Unless excused by a protective order, the party to whom the RFAs are directed is under a duty to respond within 30 days from the date of service. Absent an objection, the response must contain either an admission, a denial, or a statement claiming an inability to admit or deny. (§ 2033.210.) The responding party must provide a response that is a complete and straightforward as possible. (§ 2033.220(a)).) If only a part of request for admission is objectionable, the remainder of the request must be answered. (§ 2033.230(a)). If an objection is made to a request or to part of a request, the specific ground for the objection shall be set forth clearly in the response. If an objection is based on a claim of privilege, the particular privilege invoked shall be clearly stated. (§ 2033.230(b).)

If the propounding party believes that the responses to RFAs are deficient in some respect or that any objections thereto are not well taken, he or she may make a motion to compel further

responses under section 2033.290. (See *Wimberly v. Derby Cycle Corp.* (1997) 56 Cal.App.4th 618, 636.) Section 2033.290 provides that a motion to compel further responses must be made within 45 days of service of the "verified" responses (§ 2033.290, subd. (c)) if the propounding party asserts that the particular answer or answers are "evasive or incomplete" or the objection or objections are "without merit or too general" (*id.* subd. (a)). The court is required to impose sanctions upon the unsuccessful party or attorney for the party in connection with a motion to compel further responses, unless it finds that the "one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust." (*Id.* subd. (d).) And if the responding party disobeys an order compelling further responses made under section 2033.290, the court is empowered to "order that the matters involved in the requests be deemed admitted" and/or impose monetary sanctions. (*Id.* subd. (e); see *St. Mary v. Superior Court* (2014) 223 Cal.App.4th 762, 776–777.)

2) *Merits*

The court finds it has no authority to address the merits of defendant's motion to compel further responses to RFAs because the motion was untimely, per section 2033.290, meaning the motion must be denied. Section 2033.290 is clear – the moving party has 45 days from the service of the "verified" responses, or any supplemental verified response, or from any date agreed upon in writing by the parties, to file the motion to compel further responses. This period is extended under section 1013 when the verified response is served by mail, overnight delivery, fax, and under section 1010.6 when the response is served electronically. Here plaintiff served her RFA verified responses on March 28, 2025, by electronic service. Defendant's motion to compel further responses was filed and served on May 21, 2025. Electronic service extends the timeframe by two court days. (§1016.6(a)(3)(B).) Our local rule of court (Santa Barbara County Superior Court Local Rule 1012(d)(1)) requires electronic service by each party that has appeared and is represented by counsel, and all other persons entitled to service have expressly consented. Service of all documents in this action has been made electronically by all parties Pursuant to section 12, excluding the first day and including the last, 45 days from March 28, 2025, was May 12, 2025. This date was extended by two court days, meaning the last day the motion to compel further responses could have been filed was May 14, 2025. As noted, the motion was served and filed on May 21, 2025, well beyond the statutory time frame. There is no indication that the parties extended this time frame in writing. The 45-day time frame is mandatory and jurisdictional,[1] meaning the court has no discretion to grant an untimely motion. (See *Sexton v. Superior Court* (1997) 58 Cal.App.4th 1403, 1408–1410 [failure to bring the motion within the 45-day deadline "renders the court without authority to rule on motions to compel other than deny them"; *Vidal Sassoon, Inc. v. Superior Court* (1983) 147 Cal.App.3d 681, 683 [the statutory deadline for filing motions to compel further responses are "mandatory and the court may not entertain a belated motion to compel."].) Defendant has not filed a reply

[1] The court does not believe the 45-day limitation is "jurisdictional" in the fundamental sense but is only "jurisdictional" in the sense that it renders the court without authority to rule on the motions to compel.

addressing the timeliness issue. The court denies the motion as untimely (irrespective of its merits).

Defendant in reply claims the motion ***is*** timely because the plaintiff's objections were not verified, and because they were not verified, the 45-day clock did not start. In addressing this contention, the court starts with the observations made in *Golf & Tennis Pro Shop, Inc. v. Superior Court* (2022) 84 Cal.App.5th 127. There, the appellate court examined the nature of the 45-day time period in the context of a motion to compel further responses to interrogatories (an analogous scheme governed by the same rules), and determined the 45-day rule begins to run only when verified responses are given in a mixed combination of responses and objections (even when the motion to compel further responses challenges only the objections). Contrary to the trial court's conclusion, the appellate court found that the most "reasonable construction of the applicable statues seems to us to require verification of such a hybrid responses and objections before the time period being to run." (*Id*. at 131.) The appellate court's analysis in reaching this conclusion frames the inquiry in the present context:

> "In this case, the language is clear that the clock on a motion to compel begins to run once 'verified response[s],' 'supplemental verified response[s]''are served. (§ 2030.300, subd. (c).) Under the canon *expressio unius est exclusio alterius*, the insertion of the word 'verified' before the word 'response[s]' necessarily requires us to exclude from the provision what it does not mention—*un*verified responses. (See *Dyna-Med, Inc. v. Fair Employment & Housing Com.* (1987) 43 Cal.3d 1379, 1391, fn. 13 [].) Thus, if responses are not verified, the clock cannot begin to run.
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> The Legislature inserted the word 'verified' as part of an amendment to the Civil Discovery Act (§ 2016.010 et seq.) made through Assembly Bill No. 1183 (2013–2014 Reg.Sess.) in 2013. It was inserted to 'resolve any ambiguity in the law by specifying that the 45-day period in which to file a motion to compel does not begin to accrue until service of a verified response is made. Thus, if the response is served before verification, the 45-day period would not yet begin – it would begin upon service of the verification of the previously supplied response.' (Senate Analysis of No. 1183 (2013–2014 Reg. Sess.) June 4, 2013, p.4.) The change was prompted because it was felt many in the litigation bar engaged in a 'common practice' of serving timely unverified responses to discovery with the promise of providing verifications for the same as soon as possible. (*Ibid.*) This common practice led to confusion as to when the clock began to run; did it run when the unverified responses were served or only after the verifications were provided? The Legislature's intent was to dispel such confusion. Sadly, in this case it only appears somehow to have created more.
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> ***As both real parties in interest and the trial court noted, objections need not be verified under oath.*** Pursuant to section 2030.250, subdivision (a), "[t]he party to whom ... interrogatories are directed shall sign the response under oath *unless the response*

contains only ***objections****.*" (*Ibid.*, italics added.) Again, we can ascertain from the inclusion of the qualifying word 'only' before the word 'objections' that a response which consists of *both* objections and responses must be verified***, the only exception to this requirement is a response that contains nothing but objections."*** (*Golf & Tennis Pro Shop, Inc.*, *supra*, 84 Cal.App.5th at p. 231-232, emphasis added.)

The appellate court expressly left open the question -- to be determined another day -- the possibility of an "absurd result" "as the trial court put it" "if there is no time limit on a motion to compel involving objections." (*Id*. at 232.) The appellate court noted that when responses and objections are jointly given, however, the factual context in which the issue before it arose, the time clock only starts ticking once verified responses are given (even if the challenge involves only the objections). The logic of applying the 45-day rule to a motion to compel further responses when only objections have been advanced seems to follow from the observations made in *Golf & Tennis Pro Shop*.

Also relevant to the analysis are observations on this exact topic made in a seminal treatise in this area: " [8:1384.1] **Time limit applicable where only unverified objections received?** CCP § 2033.290(c) states that the time limit for bringing a motion to compel further responses runs from the service of a *verified* response or supplemental *verified* response. ***Although not specified in the Discovery Act, the 45-day limit probably also applies where the response is unverified and includes only objections.*** *Comment:* Because this issue is not free from doubt, to be safe, you should serve your motion within 45 days of service of unverified objections." (Weil & Brown, Civ. Proc. Before Trial (The Rutter Guide 2025), § 8:134, emphasis added.)

The court notes as a policy matter that under defendant's reading of the statute, there would be ***no*** time limit for motions to compel further responses when only objections are advanced. The court agrees with the trial court's observations recounted in *Gold & Tennis Pro Shop* – such an open-ended procedure would be an "absurd result." More pointedly, such an open-ended procedure seems unworkable, anathema to the Civil Discovery Act itself, and likely unintended by the Legislature. Accordingly, while not entirely free from doubt, the court determines, following the logic of *Golf & Tennis Pro Shop* and the exhortations outlined in Weil & Brown, that the 45-day rule, extended by service, applies to a motion to compel further responses for RFAs when only objections have been advanced and when only objections are challenged in the motion; applying this rule, as explained above, defendant's motion to compel further responses is untimely.

This leaves plaintiff's request for monetary sanctions as made in opposition. Pursuant to section 2033.290, the court shall impose monetary sanctions against an attorney or a party who unsuccessfully makes or opposes a motion to compel further response, unless the court finds "that the one subject to the sanction acted with substantial justification or that other

circumstances make the imposition of the sanction unjust." (§ 2033.290(d).) Plaintiff asks for monetary sanctions of $11,410, of which $1,410 is attributed to the motion to compel. The court finds that neither party should receive monetary sanctions associated with the motion to compel, as any award would be unjust under the circumstances. The court is not impressed with plaintiff's objections, as they appear boilerplate advanced without analytical nuance. Defendant had some justification in going forward with the motion despite the motion's untimeliness.

The court concludes with one final but important point. Plaintiff in opposition (and as reinforced in its supplemental briefing) observes that defendant in its motion to compel further response filings failed to redact statutorily confidential information. Plaintiff points to the following information that should have been redacted: 1) the social security card number of Araceli Sanchez, as well as her driver's license number, birth date, and address, as reflected in a copy of her social security card and driver's license contained in Exhibit B attached to Ms. Kristina Pfeifer's declaration; and 2) plaintiff's driver license number, birth date and address, contained in Exhibit C to Ms. Kristina Pfeifer's declaration. Defendant seems to concede there was error, and on June 16, 2025, in an attempt to remedy these problems, filed a proposed order asking the court to deem ***all*** "moving papers" filed in support of its motion to compel further responses to the request for admissions "confidential and protected from public disclosure." The court signed the order ***as an interim measure***, but rejects this approach as the appropriate long-term solution to the problem.

It is clear that defendant should have redacted the information noted above without the need for sealing or a court order for confidentiality. (Cal. Rules of Court, rule 1.201 [to protect personal privacy, parties and their attorneys must not include, or must redact where inclusion is necessary, personal identifiers, such as social security numbers (only the last four should be included), and financial account numbers (only last four numbers should be included); see also Civ. Code, §1798.85(a)(1) [person may not publicly post or publicly display in any manner an individual's social security number].) While driver license numbers, addresses, and birth dates are not expressly listed in California Rules of Court, rule 1.201, it seems appropriate to redact such personal identifying information under the circumstances, as it is similarly situated to a social security number. (See, e.g., Cal. Rules of Court, rule 2.507 [court must exclude from court calendars, indexes, and registers of action, inter alia, social security numbers and driver's license number, age, and date of birth, and victim or witness information].) Defendant erred in failing to redact the information.

California Rules of Court, rule 1.201(b) makes it abundantly clear that the "responsibility for excluding or redacting identities" in documents filed with the court "rests ***solely*** with the parties and their attorneys. The court clerk will not review each pleading or other paper for compliance with this provision." Further, it is inappropriate to deem all documents "confidential" (which would amount to essentially placing all documents under seal), for only confidential items noted above are protected. (See generally Weil & Brown, supra, Guide: Civil Procedure Before Trial (The Rutter Group 2025) ¶ 9.416.1 ["Many, if not most, motions to seal are

unnecessary because the judge does not need to review the confidential material to decide the underlying motion. In such cases, simply file the redacted document in the public file and explain the redaction in, e.g., the accompanying memorandum of points and authorities"].) As it would be manifestly inappropriate to shield all filed documents from public view, a scalpel is appropriate. A narrowly tailored solution that comports with the distinction between confidentiality and sealing, and ultimately places the burden where it should rest -- on the responsible party for the failure to redact confidential information, which in this case is defendant -- better serves the situation.

Accordingly, the court directs defendant no later than Monday, July 7, 2025, by 4:00 p.m., to resubmit the moving documents, with only the confidential information redacted. The court directs defendant to submit a proposed order for signature to this effect (it should be submitted before the hearing on reading this tentative).

Plaintiff has requested monetary sanctions specifically for defendant's breach of the confidentiality rules, in its opposition and in its supplemental briefing, as a separate request for sanctions. (Ross Dec., ¶ 12 ["Plaintiff also requests $10,000 in monetary sanctions from the illegal disclosure of her Social Security Number, Date of Birth, California Driver License Number, home address and/or Permanent Resident Car information, which provides enough information to anyone combing the court public website to assume her identity"].) The appropriate procedure is a noticed motion. (Cal. Rules of Court, rule 2.30(c).) This is a serious matter, and the parties' briefing runs far afield from how this issue should have been raised. Indeed, defendant's reply has now in effect become an opposition, and plaintiff on June 26, 2025, has filed an unauthorized document styled a "Response to Defendant's Reply . . . ." The court will not sacrifice or overlook traditional law and motion procedures based on such unilateral efforts by the parties (at least without ***prior*** court permission, which was not obtained). Instead, the court invites plaintiff to file a motion for sanctions based on the violation of California Rules of Court, rule 1.201, as a separate and distinct request for monetary sanctions, under traditional law and motion filing procedures and deadlines, with opposition and reply, which will allow both parties a meaningful opportunity to fully address all relevant issues in an orderly fashion.

In summary:

The court denies the motion to compel further responses to the Requests for Admission as untimely. As for the failure to comply with Rules of Court rule 1.201, the court has essentially deemed the documents sealed per court order dated June 19, 2025. That interim order remains in effect. The court nevertheless directs defendant to *resubmit* those motion documents that have been filed with the appropriate redactions by 4:00 p.m. on Monday, July 7, 2025, for placement

in the public portion of the case management system. The documents must indicate "Redacted and submitted by court order dated July 2, 2025" in the caption. Defendant should submit a proposed order for signature to this effect before the July 2, 2025, hearing, and once the order is signed, it will be filed with the Clerk, with notice to the parties. The court denies all requests for monetary sanctions today, but invites plaintiff to file a separate motion for monetary sanctions associated with the defendant's failure to redact (which should follow traditional law and motion deadlines). The court rejects the parties' unilateral efforts to forego traditional law and motion procedures, a discussed in the body of this order.

Both parties are directed to appear at the July 2, 2025, hearing either in person or by Zoom.