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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 RICK FRIERI, on behalf of himself and
12 all others similarly situated, and on behalf
13 of the general public,

14 Plaintiff,

15 v.

16 SYSCO CORPORATION; SYSCO SAN
17 DIEGO, INC.; AND DOES 1-100,

18 Defendants.
19

Case No.: 3:16-cv-01432-JLS-NLS

**ORDER GRANTING IN PART AND
DENYING IN PART JOINT
MOTION FOR DETERMINATION
OF DISCOVERY DISPUTE NO. 1**

(ECF No. 24)

20 Before the Court is the parties' Joint Motion for Determination of Discovery
21 Dispute No. 1. ECF No. 24.¹ Having considered the arguments presented by both parties
22 and for the reasons set forth herein and as detailed below, the Court **GRANTS IN PART**
23 and **DENIES IN PART** the Plaintiff's motion to compel further responses to
24 interrogatories and requests for production of documents.

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28 ¹ The parties are cautioned that any further discovery disputes submitted must include a
Joint Statement that is compliant with Judge Stormes Civil Procedures, No. 5.

1 **I. Background**

2 This case presents a putative class action of truck drivers for alleged wage and
3 hour violations while employed as drivers for defendant Sysco San Diego, Inc. and/or
4 Sysco Corporation. *See* ECF No. 15. Plaintiff alleges violations on behalf of a state-
5 wide putative class, and seeks discovery to support certification. ECF Nos. 15, 24.
6 Plaintiffs’ motion for class certification is due to be filed by November 10, 2017. ECF
7 No. 30.

8 Plaintiffs propounded five interrogatories and forty-eight requests for production of
9 documents to defendant Sysco San Diego, Inc. (hereafter “Defendant”) on February 14,
10 2017. ECF No. 24-1, ¶ 4. Plaintiff’s interrogatories and document requests seek, *inter*
11 *alia*, contact information relating to the putative class members; policies applicable to
12 meal and rest breaks; information about the structure and relationship of Defendant to
13 Sysco Corporation; and communications or emails relating to any and all of these
14 categories.

15 Defendant served verified responses on May 5, 2017. ECF No. 24-1, ¶ 8, Exs. 1-3.
16 Defendant’s responses to interrogatories contained objections, as well as responses
17 limited to the facility where Plaintiff was employed. ECF No. 24-1, Ex. 1. Defendant’s
18 responses to requests for production of documents broadly fell into three categories: (1)
19 objections only, (2) objections with a response that documents will be produced under a
20 protective order;² (3) objections with a response that there are no responsive documents
21 in Defendant’s possession, custody or control. ECF No. 24-1, Exs. 2-3.

22 The parties met and conferred. As a result, Defendant agreed to supplement some
23 responses, produced some documents, and requested search parameters for those requests
24 involving email. ECF No. 24 at 2-3. Defendant represents it is also waiting for some
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28 ² The Court entered a protective order on June 14, 2017. ECF No. 23. Accordingly, this condition is now moot and not further addressed in this order.

1 responsive documents to be provided, and will produce upon receipt. *See* ECF No. 24 at
2 3.

3 By this discovery dispute, Plaintiff seeks to compel answers to the interrogatories
4 and production of documents for the alleged putative class, without limitation to the
5 facility where Plaintiff worked. ECF No. 24 at 7. Plaintiff argues that the objections
6 raised by Defendant in response to the interrogatories and document requests are
7 meritless, and that further production and complete responses are required. ECF No. 24
8 at 13-20. Defendant counters that Plaintiff's requests are overbroad, and that Plaintiff
9 worked at a single facility in Palm Springs which closed 1 year into the proposed 5 year
10 class period, and thus cannot support the broad scope of discovery. ECF No. 24 at 8.
11 Defendant seeks to limit the scope of the requests and attendant production accordingly,
12 and argues responses are complete with this limitation in place and that its objections are
13 appropriate. *Id.* at 8-20.

14 **II. Discussion**

15 Rule 26 permits discovery of "any nonprivileged matter that is relevant to any
16 party's claim or defense and proportional to the needs of the case, considering the
17 importance of the issues at stake in the action, the amount in controversy, the parties'
18 relative access to relevant information, the parties' resources, the importance of the
19 discovery in resolving the issues, and whether the burden or expense of the proposed
20 discovery outweighs its likely benefit." Fed. R. Civ. P. 26(b)(1). Information need not
21 be admissible to be discoverable. *Id.* Once the propounding party establishes that the
22 request seeks relevant information, "[t]he party who resists discovery has the burden to
23 show discovery should not be allowed, and has the burden of clarifying, explaining, and
24 supporting its objections." *Superior Commc'ns v. Earhugger, Inc.*, 257 F.R.D. 215, 217
25 (C.D. Cal. 2009); *see Blankenship v. Hearst Corp.*, 519 F.2d 418, 429 (9th Cir. 1975)
26 (requiring defendants "to carry heavy burden of showing why discovery was denied").

27 In the class action context, the Ninth Circuit has addressed the question of pre-
28 certification class discovery on several occasions and concluded "[o]ur cases stand for the

1 unremarkable proposition that often the pleadings alone will not resolve the question of
2 class certification and that some discovery will be warranted.” *Vinole v. Countrywide*
3 *Home Loans, Inc.*, 571 F.3d 935, 942 (9th Cir.2009).

4 Here, the parties are in agreement that some of pre-certification discovery is
5 appropriate, but dispute the proper scope.

6 **A. Scope of Discovery**

7 Plaintiff argues that the pleadings allege uniform illegal policies in place at all of
8 Sysco’s California operating companies and a state-wide class sufficient to justify all the
9 discovery sought. *See*, ECF No. 24 at 7. Plaintiff cites to several cases in different
10 procedural postures than this case, but that indicate a single class representative may
11 pursue discovery on a class basis despite potential differences between the class
12 representative and the prospective class members.³

13 Defendant’s arguments, objections, and responses make clear that Defendant
14 challenges the Plaintiff’s ability to adequately represent a class. ECF No. 24 at 8; ECF
15 No. 24-1, Exs. 1-3. Defendant argues that Plaintiff worked at a single facility, driving a
16 single route, for a relatively short period of time and so, discovery is properly limited to
17 only the location where Plaintiff worked. ECF 24 at 8-9. Defendant provided responses
18 to interrogatories based on this interpretation and its belief that this is the proper scope of
19 class. *See* ECF No. 24-1, Exs. 1-3. Defendant argues this interpretation is correct and
20 thus, the responses are adequate. ECF No. 24 at 9. Defendant points to authority
21 presenting other discovery disputes in this District and Circuit that limit discovery to the
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24 ³ *Reyes v. CVS Pharm., Inc.*, No. 1:14-cv-00964 MJS, 2014 U.S. Dist. Lexis 111188, 2014 WL
25 3938865, (E.D. Cal, Aug. 8, 2014) primarily addresses the timeliness of removal of a class action and
26 looks at the interpretation of scope of the class in that context; not in the propriety of the discovery
27 requests. However, there the court disagreed with defendant’s interpretation that because the class
28 representative worked in the distribution center, the class was limited to distribution center employees.
Church v. Consolidated Freightways, Inc., 137 F.R.D. 294, 308 (N.D. Cal. 1991) addresses notice and
the scope of subclasses in an age discrimination case. The court permitted notice to a subclass for all
persons affected by the allegedly discriminatory policy, despite that plaintiff and named representative
may not have suffered the same type of discrimination under that policy.

1 location where plaintiff was employed absent evidence supporting company-wide
2 violations. *Id.* at 9-10 (discussed below).

3 Discovery prior to class certification “is generally limited and in the discretion of
4 the court.” *Talavera v. Sun Maid Growers of California*, No. 1:15-CV-00842 AWI SAB,
5 2017 WL 495635, at *2 (E.D. Cal. Feb. 6, 2017) (quoting *Del Campo v. Kennedy*, 236
6 F.R.D. 454, 459 (N.D. Cal. 2006)). Plaintiff bears the burden of a prima facie showing
7 that the class action requirements of Rule 23 are either met or that discovery is likely to
8 substantiate the class allegations. *Id.* “Especially when the material is in the possession
9 of the defendant, the court should allow the plaintiff enough discovery to obtain evidence
10 as to whether a class action is maintainable.” *Id.* (citing *Doninger v. Pac. Nw. Bell, Inc.*,
11 564 F.2d 1304, 1313 (9th Cir. 1977)). The court should consider “the need for discovery,
12 the time required, and the probability of discovery providing necessary factual
13 information” in exercising its discretion to allow or prohibit discovery. *Doninger*, 564
14 F.2d at 1313. However, if the plaintiff cannot meet the prima facie showing of the
15 requirements of Rule 23, “the burden is on the plaintiff to demonstrate that discovery
16 measures re likely to produce persuasive information substantiating the class allegations.”
17 *Talavera v. Sun Maid Growers of California*, 2017 WL 495635, at *2 (quoting *Doninger*,
18 564 F.2d at 1313).

19 Here, Plaintiff has satisfied the requirements of Rule 23 pleading, as demonstrated
20 by survival of claims in response to a motion to dismiss. *See*, ECF Nos. 14, 15; *Nguyen*
21 *v. Baxter Healthcare Corp.*, 275 F.R.D. 503, 507 (C.D. Cal. 2011) (stating that survival
22 of a motion to dismiss necessarily demonstrates compliance with the prima facie
23 requirements). Accordingly, the burden remains with the Defendant as “[t]he party who
24 resists discovery... to show discovery should not be allowed...” *Superior Commc'ns v.*
25 *Earhugger, Inc.*, 257 F.R.D. 215, 217 (C.D. Cal. 2009).

26 In a discovery dispute in *Nguyen v. Baxter Healthcare Corp.*, the defendant
27 satisfied its burden by citation to the plaintiff’s deposition which made clear that plaintiff
28 was unaware of the practices in any other facility and that the company’s policies were

1 proper. 275 F.R.D. at 507-08. In a discovery dispute before Judge Bartick of this district
2 in *Coleman v. Jenny Craig, Inc.*, the defendant cited to the plaintiff’s deposition
3 testimony where she relayed her own experiences but could not confirm the practices
4 elsewhere. No. 11-cv-1301-MMA-DHB, 2013 WL 2896884 at *9 (S.D. Cal. June 12,
5 2013). In *Martinet v. Spherion Atlantic Enterprises, LLC*, then Magistrate Judge
6 Battaglia of this district was presented with a defendant seeking a protective order to limit
7 discovery where Plaintiff was seeking to represent a state-wide class. Defendant pointed
8 to the plaintiff’s one month of employment at a single location to narrow the time and
9 scope of discovery to one year and solely the location where plaintiff worked. No. 07-cv-
10 1278-W-AJB, 2008 WL 2557490 at *2 (S.D. Cal. June 23, 2008).

11 Here, Defendant raises similar arguments to seek to limit discovery, but has
12 offered no evidence to support its arguments in the form of deposition testimony,
13 policies, declarations, or other discovery responses from Plaintiff. Defendant simply
14 states that it has four facilities, one of which was the Palm Springs location from which
15 Plaintiff operated. ECF No. 24 at 9. Defendant argues that two of the present facilities
16 opened after Plaintiff’s employment had already concluded, rendering any violations
17 stemming from these locations speculative. *Id.* In addition, two former facilities have
18 closed, including the Palm Springs facility where Plaintiff was employed. *Id.* Defendant
19 argues that Plaintiff’s employment for approximately one year at the Palm Springs
20 facility does not support discovery on a state-wide basis where the Plaintiff’s experiences
21 “would likely have been impacted by the particular supervisor or trainer he worked with
22 in Palm Springs....” *Id.* Defendant contends that Plaintiff has not presented evidence of
23 company-wide violations sufficient to justify company-wide discovery. *Id.* at 10. And
24 while Defendant avers that its policies are legally compliant, it has not put the policies
25 before this Court, or offered an explanation as to how or why enforcement of its legally
26 compliant company-wide policies could be affected by a “particular supervisor or trainer”
27 at the Palm Springs facility and not at any other location. Under these circumstances,
28 Defendant has not satisfied its burden to show that the discovery should not be permitted.

1 Nonetheless, Plaintiff propounded discovery to Defendant (i.e., Sysco San Diego,
2 Inc.) only. Defendant may respond for itself only. Fed. R. Civ. P. 33 (b)(1), 34(b)(2).
3 Plaintiff’s apparent inclusion of “related entities” in its definitions for interrogatories and
4 requests for documents does not, without more, require Defendant to locate or produce
5 information or documents for its parent company or other subsidiaries of the parent
6 company.⁴ See, e.g. ECF No. 24 at 16, line 26; *LG Display Co. v. Chi Mei*
7 *Optoelectronics Corp.*, No. 08CV2408-L(POR), 2009 WL 223585, at *3 (S.D. Cal. Jan.
8 28, 2009) (“A subsidiary will be deemed to have possession, custody or control of
9 documents held by its parent company only in certain circumstances”). Plaintiff has
10 offered no evidence that circumstances exist such that this Defendant has “some form of
11 ‘control’ ... over the documents and information sought.” *LG Display Co. v. Chi Mei*
12 *Optoelectronics Corp.*, 2009 WL 223585, at *3. There is no indication that Defendant
13 has either control or access to the contact information, records, or other information for
14 the non-exempt employees of any other subsidiary of Sysco Corporation. Additionally,
15 Sysco Corporation is a named defendant from which Plaintiff can pursue this information
16 directly. Accordingly, the court finds that the scope of discovery is properly limited to
17 Defendant’s entity, i.e., Sysco San Diego, Inc.

18 Further restrictions to the scope of discovery are appropriate for certain requests.
19 Though cited by neither party, the Eastern District of California recently addressed an
20 analogous case. In *Talavera v. Sun Maid Growers of California* the court was presented
21 with a discovery dispute in a putative class action alleging violations of the Fair Labor
22 Standards Act for a class that was allegedly subject to a company-wide policy. No. 1:15-
23 CV-00842 AWI SAB, 2017 WL 495635, at *1-2 (E.D. Cal. Feb. 6, 2017). The Eastern
24 District noted the limitations and distinctions between class and merits discovery:

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28 ⁴ The definitions were not provided or attached to the Joint Motion for the Court’s review.

1 At this stage of the litigation, the parties are conducting
2 discovery only as to class certification. While the Court
3 recognizes that there is some overlap between class certification
4 and merits discovery, *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S.
5 338, 351 (2011), it also considers the proportionality of the
6 requested discovery considering the importance of the issues at
7 stake in the action, the amount in controversy, the parties'
8 relative access to relevant information, the parties' resources,
9 the importance of the discovery in resolving the issues, and
10 whether the burden or expense of the proposed discovery
11 outweighs its likely benefit.” Fed. R. Civ. P. 26(b)(1). [¶]
12 Here, Plaintiff is seeking punch, time and pay records for all
putative class members. While Plaintiff is entitled to conduct
some discovery in preparation of the motion for class
certification, discovery of all putative class member pay, punch,
and time information goes to the merits and is beyond the
discovery needed in preparing the class certification motion.

13 *Id.* at *4. To strike the balance between class and merits discovery, the *Talavera* court
14 permitted production for a limited group of class members and sampling of the remainder
15 of the class. *Id.*

16 Here, the Court finds that several of the document production requests in particular
17 seek merits discovery that is disproportionate to the needs of the case at this stage of
18 litigation. As addressed individually below, Plaintiff’s motion to compel further
19 documents in response to these requests will be limited in some instances to the
20 information already provided by Defendant. If a class is certified and this case proceeds
21 to merits discovery on the alleged state-wide class, Plaintiff may then re-issue discovery
22 to obtain documents on a state-wide basis.

23 **B. Interrogatories**

24 Plaintiff seeks to compel further answers to Interrogatories 1 through 4.
25 Interrogatory 1 asks for contact information of the putative class members.
26 Interrogatories 2 through 4 ask for the number of all putative class members currently
27 employed; the number terminated in the relevant period; and employed by Defendant
28 specifically. Generally, Defendant offered objections and answers for the Palm Springs

1 facility only. Plaintiff seeks to compel answers inclusive of the entire state-wide putative
2 class. The court will first address the objections raised, and then the specific requests.

3 **1. Objections to Definitions**

4 Defendant objects to the Plaintiff's definition of "PUTATIVE CLASS
5 MEMBERS" as overbroad and disproportional to the needs of the case on the grounds
6 that Plaintiff cannot adequately represent the class members. Neither party put this
7 definition before the court for review. The Joint Motion provides responses only that
8 contain the question and response, but do not include the definitions contained with the
9 original requests. ECF No. 24-1, Ex. 1. Nonetheless, the adequacy of the class
10 representative is best addressed at the motion for class certification, and not at the
11 discovery phase where a prima facie showing is all that is required. *See, Coleman v.*
12 *Jenny Craig, Inc.*, 2013 WL 2896884, at *6. In regards to over-breadth, the court has
13 addressed the scope of discovery above.

14 Defendant also objects to the definition of "PUTATIVE CLASS MEMBERS" as
15 vague and ambiguous because "Plaintiff defines the term to include 'other similar job
16 designations or titles.'" ECF No. 24-1, Ex. 1 [Page ID 508, lines 5-6]. This objection
17 lacks merit. While Defendant is correct that the phrase lacks specificity, Defendant is
18 uniquely positioned to know the exact job titles and designations for its employees.

19 Defendant objects to providing information for any entity other than the named
20 Defendant to which discovery was propounded. This objection is proper. *See, Section*
21 *II.A; Fed. R. Civ. P. 33 (b)(1); LG Display Co. v. Chi Mei Optoelectronics Corp.*, 2009
22 *WL 223585*, at *3.

23 **2. Privacy**

24 For Interrogatory No. 1, Defendant also objects to the production of contact
25 information on the grounds of privacy. Contact information including mailing address,
26 telephone number, and email addresses are commonly found to be relevant and
27 discoverable, and related privacy concerns of the class members has been raised an
28 addressed by many courts. *See, Salgado v. O'Lakes*, No. 1:13-CV-0798-LJO-SMS, 2014

1 WL 7272784, at *10 (E.D. Cal. Dec. 18, 2014) (collecting cases permitting contact
2 information to be produced and protective orders to address privacy concerns); *Brawner*
3 *v. Bank of Am., N.A.*, No. C 14-02702 YGR (LB), 2014 WL 6845504, at *3 (N.D. Cal.
4 Dec. 4, 2014) (same).

5 This Court agrees with the many courts that have addressed this issue that privacy
6 concerns of the class are properly managed under a protective order and that
7 communications must be fair and accurate, and must not be misleading, intimidating, or
8 coercive. *Salgado v. O'Lakes*, 2014 WL 7272784, at *12. Where privacy concerns have
9 been raised, courts have also required "Plaintiff's counsel to "inform each potential
10 putative class member contacted by Plaintiff that he or she has a right not to talk to
11 counsel and that, if he or she elects not to talk to counsel, Plaintiff's counsel will
12 terminate the contact and not contact them again." *Benedict v. Hewlett-Packard Co.*, No.
13 13-CV-0119-LHK, 2013 WL 3215186, at *3 (N.D. Cal. June 25, 2013); see also,
14 *Brawner v. Bank of Am., N.A.*, 2014 WL 6845504, at *3 (same). In addition, courts have
15 required Plaintiff's counsel to make clear that Defendant was compelled by court order to
16 provide the contact information, and communicate the highly confidential nature of the
17 disclosure. *Id.*

18 This Court will likewise order that all communications are bound by these
19 strictures, and that the contact information may be used only for the purposes of this
20 lawsuit, and that the class list should not be distributed to any other person or entity.

21 **3. Interrogatory No. 1**

22 Interrogatory No. 1 asks:

23 What are the names, job titles, last known ADDRESSES,
24 telephone numbers, and email addresses of the PUTATIVE
25 CLASS MEMBERS for the RELEVANT TIME PERIOD? ⁵

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28 ⁵ Defendant raises no objection to the time period.

1 ECF No. 24-1, Ex. 1. Plaintiff's motion to compel a further response is **GRANTED IN**
2 **PART.**

3 Consistent with the foregoing analysis, Defendant is **ORDERED** to provide an
4 amended answer with the names, job titles, last known addresses, telephone numbers, and
5 email address ("Contact Information") for any putative class member employed by
6 Defendant Sysco San Diego, Inc. at any of its facilities during the relevant time period by
7 **August 7, 2017**. This Contact Information is to be provided subject to the protective
8 order operative in this case.

9 Plaintiff's counsel is **ORDERED** to

10 (1) Only use the Contact Information for the purposes of this lawsuit and the

11 Contact Information may not be distributed to any other person or entity;

12 (2) Plaintiff's counsel must inform each potential putative class member contacted
13 that he or she has a right not to talk to counsel and that, if he or she elects not to
14 talk to counsel, Plaintiff's counsel will terminate the contact and not contact
15 them again;

16 (3) Plaintiff's counsel must also make clear that Defendant was compelled by court
17 order to provide the Contact Information, and communicate the highly
18 confidential nature of the disclosure;

19 (4) All communications must be fair and accurate and must not be misleading,
20 intimidating, or coercive.

21 ***4. Interrogatory Nos. 2 - 4***

22 Interrogatory Nos. 2 – 4 state:

23 (2) How many PUTATIVE CLASS MEMBERS are currently
24 employed by SYSCO SAN DIEGO, INC.?

25 (3) How many PUTATIVE CLASS MEMBERS have had their
26 employment with YOU terminated – either voluntarily or
27 involuntarily – from April 11, 2012 to the present?
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1 (4) How many PUTATIVE CLASS MEMBERS has SYSCO
2 SAN DIEGO, INC., employed during the RELEVANT TIME
3 PERIOD?

4 ECF No. 24-1, Ex. 1. Plaintiff's motion to compel further responses is **GRANTED IN**
5 **PART.**

6 Consistent with the foregoing analysis regarding scope, Defendant is **ORDERED**
7 to provide amended answers that include all facilities and employees of Defendant Sysco
8 San Diego, Inc. by August 7, 2017.

9 **C. Requests for Production of Documents**

10 Plaintiff also seeks to compel further production of documents from Defendant.
11 The parties met and conferred on this issue and Defendant has produced some documents
12 and agreed to produce others. ECF No. 24 at 2-3. However, the parties continue to
13 disagree regarding both the proper scope and sufficiency of production for several
14 requests. Defendant objects that many of the requests are overbroad, and seek vast
15 quantities of documents that are neither relevant nor proportional to the needs of the case.

16 **1. Defendant's Objections**

17 Plaintiff argues that Defendant's objections are boilerplate and lack merit. The
18 Court disagrees. While some objections were unnecessary (e.g., attorney client or work
19 product privilege, *see* ECF No. 24 at 19), Defendant's objections, particularly regarding
20 over-breadth and emails, are well founded. *See*, ECF No. 24 at 6, 13-16.

21 In addition, Defendant states that it offered to meet and confer with Plaintiff to
22 develop search terms and connectors to narrow the search for responsive documents and
23 agreed to produce documents in response to reasonable search parameters. ECF No. 24,
24 at 13, 14-15. It appears that Plaintiff has not responded to this request. ECF No. 24 at
25 13:1-2. Moreover, Plaintiff's argument that a "simple use of the 'search' function in their
26 respective email program" demonstrates an apparent lack of understanding of e-discovery
27 that this Court rejects. ECF No. 24 at 13:27-28. By and large, Plaintiff's requests are not
28 tailored or proportional to the needs of the case and Defendant's objections are proper.

1 While each request is addressed individually, Plaintiff's counsel is **ORDERED** to
2 meet and confer with Defendant's counsel to develop reasonable, tailored search terms
3 and appropriate connectors to limit the scope and breadth of the requests that seek emails.
4 If necessary, each parties' persons knowledgeable regarding the technical aspects of e-
5 discovery (e.g. e-discovery vendors, paralegals, IT personnel, or other ESI
6 representatives) may participate in the meet and confer conference to aide in the
7 development of search terms and appropriate connectors to narrow and tailor the
8 parameters of discovery and scope of responsive documents. For each request that
9 directs the parties meet and confer, the parties are **ORDERED** to have and complete that
10 conference by **July 21, 2017**. Following the conference, Defendant shall have 30 days,
11 until **August 31, 2017**, to produce the responsive emails.

12 ***2. Request for Production of Documents, Set One (Nos. 2, 3, 5-7, 10-12,***
13 ***14, 15, 24, 25, 28-33, 37-40, and 42)***

14 **Request No 2:**

15 All EMAILS and/or communications referring to YOUR meal
16 period and/or rest period policies, practices, and/or procedures
17 for the PUTATIVE CLASS MEMBERS for the RELEVANT
18 TIME PERIOD.

18 Defendant's response to this request includes objections only, including that the
19 request is disproportionate to the needs of the case based on the inclusion of "emails" and
20 is overbroad. ECF No. 24-1, Ex 2 [Page ID 517-518]. The Joint Motion indicates that
21 Defendant agreed to a supplement these responses and requested reasonable search
22 parameters to respond to this request due to the inclusion of "emails." ECF No. 24 at 2,
23 13.

24 Defendant has agreed to supplement its production. Plaintiff's counsel is
25 **ORDERED** to meet and confer with Defendant's counsel (with ESI representatives/
26 vendors if necessary) to develop reasonable search terms and connectors to identify
27 relevant, narrowly tailored, responsive emails by no later than **July 21, 2017**. Defendant
28 must produce responsive documents by **August 31, 2017**.

1 Request No 3:

2 All DOCUMENTS concerning and/or referring to YOUR
3 policies and practices of how meal periods were counted,
4 tabulated and/or deducted for the PUTATIVE CLASS
5 MEMBERS for the RELEVANT TIME PERIOD.

6 Defendant's response includes objections and states it will produce its policies
7 related to meal period for its drivers. ECF No. 24-1, Ex. 2 [Page ID 518-519].

8 Defendant's statement in the Joint Motion indicates responsive documents have been
9 produced. ECF No. 24 at 2.

10 Plaintiff's Joint Motion submissions address the objections raised, but fails to
11 specify what further documents or production Plaintiff desires or believes exist in
12 response to this particular request. Accordingly, the Court finds the Defendant's
13 objections and scope of production proper and proportionate to the needs of the case at
14 this time. Plaintiff's motion to compel a further production is **DENIED**.

15 Request No 5:

16 All DOCUMENTS, EMAILS and/or communications
17 concerning and/or referring to how YOUR wages were
18 recorded for the RELEVANT TIME PERIOD.

19 Defendant's response includes objections and states it will produce its payroll
20 policies. ECF No. 24-1, Ex. 2 [Page ID 520-521]. Defendant's statement in the Joint
21 Motion indicates responsive documents, other than emails, were produced. ECF No. 24
22 at 2. Plaintiff appears to only seek emails not produced in response to this request.

23 The Court finds that as phrased, this request is vague and overbroad. The request
24 seeks inter-company communications regarding wage recording. The Court agrees with
25 Defendant that other means of discovery (e.g., deposition of a company representative)
26 are better suited to seek the type of information sought by this request, rendering it
27 burdensome. Plaintiff's motion to compel a further production is **DENIED**.

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1 Request No 6:

2 All DOCUMENTS, EMAILS and/or communications
3 concerning and/or referring to wage records, pay stubs,
4 paychecks and/or W-2s concerning Plaintiff RICK FRIERI.

5 Defendant's response includes objections and states it will produce responsive
6 documents, apart from emails. ECF No. 24-1, Ex. 2 [Page ID 521-522]. Defendant's
7 statement in the Joint Motion indicates responsive documents have been produced, and
8 that search parameters were requested regarding email production. ECF No. 24 at 2.

9 The Court finds this request proper. However, reasonable search terms and
10 connectors are appropriate and proportionate to the needs of the case. Plaintiff's motion
11 to compel is **GRANTED IN PART**. Plaintiff's counsel is **ORDERED** to meet and
12 confer with Defendant's counsel (with ESI representatives/vendors if necessary) to
13 develop reasonable search terms and connectors to identify relevant, narrowly tailored,
14 responsive emails by no later than **July 21, 2017**. Defendant must produce responsive
15 emails by **August 31, 2017**.

16 Request No 7:

17 All wage records, pay-stubs, and or paychecks concerning the
18 PUTATIVE CLASS MEMBERS for the RELEVANT TIME
19 PERIOD.

20 Defendant's response includes objections only, primarily that Defendant did not
21 employ the class members. ECF No. 24-1, Ex. 2 [Page ID 522]. Defendant's statement
22 in the Joint Motion indicates that it has agreed to provide supplemental responses. ECF
23 No. 24 at 3.

24 The Court finds this request, as phrased, seeks merits discovery disproportionate to
25 the needs of the case at the class certification stage. *Talavera v. Sun Maid Growers of*
26 *California*, 2017 WL 495635, at *4. Defendant has agreed to supplement its response,
27 and is bound by that agreement. Plaintiff did not address this request specifically in its
28 Joint Motion. Accordingly, the Court finds that Defendant's agreement to supplement its

1 responses strikes proper balance of class and merits discovery, and Defendant remains
2 bound by that agreement. Plaintiff's motion to compel any further production is
3 **DENIED.**

4 Request No 10:

5 All DOCUMENTS, EMAILS and/or communications
6 concerning YOUR policies and practices concerning what the
7 PUTATIVE CLASS MEMBERS can and/or cannot do during
8 their workday for the RELEVANT TIME PERIOD.

9 Defendant's response includes objections and states it will produce responsive
10 documents, other than emails. ECF No. 24-1, Ex. 2 [Page ID 523-524]. Defendant's
11 statement in the Joint Motion indicates responsive documents have been produced, and
12 that search parameters were requested regarding email production. ECF No. 24 at 2.

13 Emails reflecting complaints or putative class members' violations of any such
14 policies would fall within the scope of this request are relevant to the action. Plaintiff's
15 motion to compel is **GRANTED IN PART**. Plaintiff's counsel is **ORDERED** to meet
16 and confer with Defendant's counsel (with ESI representatives/vendors if necessary) to
17 develop reasonable search terms and connectors to identify relevant, narrowly tailored,
18 responsive emails by no later than **July 21, 2017**. Defendant must produce responsive
19 emails by **August 31, 2017**.

20 Request No 11:

21 All DOCUMENTS, EMAILS and/or communications
22 concerning YOUR use of any time, attendance, and/or payroll
23 systems, programs, and/or companies during the RELEVANT
24 TIME PERIOD.

25 Defendant's response includes objections and states it will produce responsive
26 documents, other than emails. ECF No. 24-1, Ex. 2 [Page ID 524-525]. Defendant's
27 statement in the Joint Motion indicates responsive documents have been produced, and
28 that search parameters were requested regarding email production. ECF No. 24 at 2.
Plaintiff's motion to compel appears only to seek any withheld emails.

1 The Court finds that as phrased, this request is vague and overbroad. The request
2 seeks inter-company communications regarding the use of payroll systems. The Court
3 agrees with Defendant that other means of discovery (e.g., deposition of a payroll
4 representative) are better suited to seek the type of information sought by this request,
5 rendering it burdensome. Plaintiff's motion to compel further production is **DENIED**.

6 Request No 12:

7 All DOCUMENTS, EMAILS and/or communications
8 concerning and/or referring to the job duties and/or
9 responsibilities of the PUTATIVE CLASS MEMBERS for the
RELEVANT TIME PERIOD.

10 Defendant's response includes objections and states it will produce responsive
11 documents, apart from emails. ECF No. 24-1, Ex. 2 [Page ID 525-526]. Defendant's
12 statement in the Joint Motion indicates responsive documents have been produced, and
13 that search parameters were requested regarding email production. ECF No. 24 at 2.

14 The Court finds this request proper. However, reasonable search terms and
15 connectors are appropriate and proportionate to the needs of the case. Plaintiff's motion
16 to compel is **GRANTED IN PART**. Plaintiff's counsel is **ORDERED** to meet and
17 confer with Defendant's counsel (with ESI representatives/vendors if necessary) to
18 develop reasonable search terms and connectors by no later than **July 21, 2017**.
19 Defendant must produce responsive emails by **August 31, 2017**.

20 Request No 14:

21 All DOCUMENTS, EMAILS and/or communications
22 concerning daily activity sheets; daily activity documents
23 and/or daily documents concerning Plaintiff RICK FRIERI.
24 This includes, but is not limited to daily route sheets,
checkpoint, and/or daily goal documents.

25 Defendant's response states that following a diligent search and reasonable inquiry,
26 it has no documents in its possession, custody or control in response to this request. ECF
27 No. 24-1, Ex. 2 [Page ID 526-527]. Defendant's statement in the Joint Motion reasserts
28 this response. ECF No. 24 at 2.

1 The Court finds this request proper. The Court also finds that for all non-email
2 documents, Defendant's response is proper. Fed. R. Civ. P. 34(a)(1). However,
3 Defendant's response states that it did not search emails, and Request No. 14 is not
4 included among the requests for which Defendant states it is seeking reasonable search
5 parameters. ECF No. 24 at 2, ECF No. 24-1, Ex. 2 [Page ID 527]. Accordingly,
6 Plaintiff's motion to compel is **GRANTED IN PART**. If the type of documents sought
7 by this request are not generated by Defendant and would not exist in email format, then
8 Defendant may provide an amended, verified response to clarify same by no later than
9 August 7, 2017. If this type of document exists within Defendant's emails, then
10 Plaintiff's counsel is **ORDERED** to meet and confer with Defendant's counsel (with ESI
11 representatives/vendors if necessary) to develop reasonable search terms and connectors
12 to identify relevant, narrowly tailored, responsive emails by no later than July 21, 2017.
13 Defendant must produce responsive emails by August 31, 2017.

14 Request No 15:

15 All DOCUMENTS, EMAILS and/or communications
16 concerning YOUR employment manuals for all the PUTATIVE
17 CLASS MEMBERS for the RELEVANT TIME PERIOD.

18 Defendant's response includes objections and states it will produce responsive
19 documents, apart from emails. ECF No. 24-1, Ex. 2 [Page ID 527-528]. Defendant's
20 statement in the Joint Motion indicates responsive documents have been produced, and
21 that search parameters were requested regarding email production. ECF No. 24 at 2.

22 The Court finds that as phrased this request is overbroad and seeks irrelevant
23 information. Any and all communications or documents referring to the employment
24 manual are not relevant to this action. The scope of the request must be limited to
25 information regarding duties of drivers, meal and rest breaks, and wage/payroll policies
26 as reflected, revised, or modified in the employment manuals during the relevant time
27 period.
28

1 The Court **ORDERS** that all employment manuals in use during the relevant time
2 period for the putative class members be produced, if they were not included in
3 Defendant’s production to date. If Plaintiff identifies substantive changes to the sections
4 regarding job duties, meal and/or rest breaks, or wage/payroll policies, or other policy
5 directly relevant to this litigation, then Plaintiff’s counsel is **ORDERED** to meet and
6 confer with Defendant’s counsel (with ESI representatives/vendors if necessary) to
7 develop reasonable search terms and connectors to identify emails related to the relevant
8 changes to the applicable policies by no later than **July 21, 2017**, and Defendant must
9 produce responsive emails by **August 31, 2017**. If there were no changes to the
10 applicable and relevant employment manual policies, then no further action or production
11 is required from Defendant in response to this request.

12 Request Nos. 24-25:

13 All DOCUMENTS concerning the PUTATIVE CLASS
14 MEMBERS’ actual clock-in/clock-out times during the
15 RELEVANT TIME PERIOD...in native format ... [No. 24]
[and] in pdf format [No. 25].

16 Defendant’s response includes objections and states it will produce responsive
17 documents. ECF No. 24-1, Ex. 2 [Page ID 533-535]. Defendant’s statement in the Joint
18 Motion indicates Defendant is awaiting documents for the remainder of the “putative
19 class” as interpreted by Defendant, i.e. drivers at the Palm Springs facility where Plaintiff
20 worked and will produce upon receipt. ECF No. 24 at 3.

21 The Court finds that this request seeks relevant information. However, as phrased
22 and with the definition of “putative class” as defined by Plaintiff, this request seeks
23 merits discovery disproportionate to the needs of the case at the class certification stage.
24 *Talavera v. Sun Maid Growers of California*, 2017 WL 495635, at *4.

25 Defendant represents to the Court that Defendant presently has 4 facilities, at least
26 two of which were in operation at the time Plaintiff was employed. ECF No. 24 at 9.
27 Defendant represents two facilities have closed including the facility where Plaintiff
28 worked. To balance the interests of both parties while permitting Plaintiff the

1 opportunity to present evidence as to a viable class, the Court finds the proper scope of
2 discovery for the purposes of production of documents in response to this request to be
3 Sysco San Diego, Inc.'s facilities in existence and operation during the time Plaintiff was
4 employed. The facilities that have opened since Plaintiff's separation from Defendant
5 are, for the moment, excluded.

6 Plaintiff's motion to compel is **DENIED IN PART** and **GRANTED IN PART**.
7 Defendant is **ORDERED** to produce responsive information for the non-exempt drivers
8 operating out of the facilities in operation and existence during Plaintiff's time of
9 employment during the relevant time period by **August 7, 2017**.

10 Request No 28:

11 All DOCUMENTS, EMAILS and/or communications
12 concerning YOUR training manuals and/or training materials
13 for all the PUTATIVE CLASS MEMBERS for the
14 RELEVANT TIME PERIOD.

15 Defendant's response includes objections and states it will produce responsive
16 documents, documents, apart from emails. ECF No. 24-1, Ex. 2 [Page ID 537-538].
17 Defendant's statement in the Joint Motion indicates responsive documents have been
18 produced, and that search parameters were requested regarding email production. ECF
19 No. 24 at 2.

20 The Court finds that as phrased, this request is overbroad and seeks irrelevant
21 information. Any and all communications or documents referring to the training manuals
22 or materials are not relevant to this action. The scope of the request must be limited to
23 information regarding job duties of class members, meal and rest breaks, and
24 wage/payroll policies as reflected, revised, or modified in the training manuals or
25 materials during the relevant time period.

26 The Court **ORDERS** that all training manuals in use during the relevant time
27 period for the putative class members be produced, if they were not included in
28 Defendant's production to date. If Plaintiff identifies substantive changes to the sections
regarding job duties, meal and/or rest breaks, or wage/payroll policies, or other policy

1 directly relevant to this litigation, then Plaintiff's counsel is **ORDERED** to meet and
2 confer with Defendant's counsel (with ESI representatives/vendors if necessary) to
3 develop reasonable search terms and connectors to identify and produce emails related to
4 the relevant changes to the applicable policies by no later than **July 21, 2017**, and
5 Defendant must produce responsive emails by **August 31, 2017**. If there were no changes
6 to the applicable and relevant employment manual policies, then no further action or
7 production is required from Defendant in response to this request.

8
9 Request No 29:

10 All DOCUMENTS, EMAILS and/or communications
11 concerning YOUR manager files and/or documents concerning
12 Plaintiff RICK FRIERI.

13 Defendant's response includes objections to the email search and states it will
14 produce Mr. Frieri's personnel file. ECF No. 24-1, Ex. 2 [Page ID 538]. Defendant's
15 statement in the Joint Motion indicates responsive documents have been produced, and
16 that search parameters were requested regarding email production. ECF No. 24 at 2.
17 Plaintiff appears only to seek to compel responsive emails.

18 Plaintiff's motion to compel is **GRANTED IN PART**. Plaintiff's counsel is
19 **ORDERED** to meet and confer with Defendant's counsel (with ESI
20 representatives/vendors if necessary) to develop reasonable search terms and connectors
21 by no later than **July 21, 2017**. Defendant must produce responsive emails by **August**
31, 2017.

22 Request No 30:

23 All DOCUMENTS, EMAILS and/or communications
24 concerning YOUR timekeeping software systems for the
25 RELEVANT TIME PERIOD.

26 Defendant's response includes objections and states it will produce responsive
27 documents, other than emails. ECF No. 24-1, Ex. 2 [Page ID 538-539]. Defendant's
28

1 statement in the Joint Motion indicates responsive documents have been produced, and
2 that search parameters were requested regarding email production. ECF No. 24 at 2.

3 The Court finds that as phrased this request is overbroad and seeks irrelevant
4 information. Any and all communications or documents referring to the timekeeping
5 software are not relevant to this action. The scope of the request must be limited to
6 information regarding meal and rest breaks, and items such as automatic deductions, or
7 other allegations within Plaintiff's complaint.

8 Plaintiff's motion to compel is **GRANTED IN PART**. Plaintiff's counsel is
9 **ORDERED** to meet and confer with Defendant's counsel to (1) narrow the scope of the
10 request to seek only relevant information and then, (2) develop reasonable search terms
11 and connectors to identify and produce emails responsive to the narrowly tailored request
12 by no later than **July 21, 2017**. Defendant must produce responsive emails by **August**
13 **31, 2017**.

14 Request No 31:

15 All DOCUMENTS, EMAILS and/or communications
16 concerning how meal periods are inputted and/or integrated into
17 the timekeeping software systems for the PUTATIVE CLASS
MEMBERS for the RELEVANT TIME PERIOD.

18 Defendant's response includes objections and states it will produce responsive
19 documents, apart from emails. ECF No. 24-1, Ex. 2 [Page ID 539-540]. Defendant's
20 statement in the Joint Motion indicates responsive documents have been produced, and
21 that search parameters were requested regarding email production. ECF No. 24 at 2.

22 The Court finds this request proper and appropriately tailored. However,
23 reasonable search terms and connectors are appropriate and proportionate to the needs of
24 the case. Plaintiff's motion to compel is **GRANTED IN PART**. Plaintiff's counsel is
25 **ORDERED** to meet and confer with Defendant's counsel (with ESI representatives/
26 vendors if necessary) to develop reasonable search terms and connectors to identify
27 relevant, narrowly tailored, responsive emails by no later than **July 21, 2017**. Defendant
28 must produce responsive emails by **August 31, 2017**.

1 Request No 32:

2 All DOCUMENTS, EMAILS and/or communications
3 concerning YOUR records which record time worked, meal
4 periods taken, rest periods taken, deductions, and/or tax
5 deductions regarding Plaintiff RICK FRIERI for the
6 RELEVANT TIME PERIOD.

7 Defendant's response is objections only on the grounds that the request is vague,
8 ambiguous, overbroad and disproportionate. ECF No. 24-1, Ex. 2 [Page ID 540-541].
9 Defendant's statement in the Joint Motion does not address this request to indicate
10 whether any documents were produced. ECF No. 24 at 2-3. Plaintiff does not address
11 this request specifically.

12 The Court finds this request is duplicative of other requests (*see* Request Nos. 6,
13 33) but as it is not clear that any documents have been produced, will permit Plaintiff to
14 proceed. Plaintiff's motion to compel is **GRANTED**. Defendant is **ORDERED** to
15 produce any (non-email) documents that record or are otherwise used to calculate or
16 record time worked that have not been otherwise produced, e.g. time sheets, punch logs,
17 etc., as well as documents reflecting deductions by August 7, 2017. Plaintiff's counsel is
18 **ORDERED** to meet and confer with Defendant's counsel (with ESI
19 representatives/vendors if necessary) to develop reasonable search terms and connectors
20 to identify and produce responsive emails by no later than July 21, 2017. Defendant
21 must produce responsive emails by August 31, 2017.

22 Request No 33:

23 All DOCUMENTS, EMAILS and/or communications
24 concerning and/or referring to YOUR records which record
25 time worked, meal periods taken, and rest periods taken
26 regarding the PUTATIVE CLASS MEMBERS for the
27 RELEVANT TIME PERIOD.

28 Defendant's response is objections only on the grounds that the request is vague,
 ambiguous, overbroad, disproportionate and seeks irrelevant information. ECF No. 24-1,

1 Ex. 2 [Page ID 541-542]. Defendant's statement in the Joint Motion argues the request
2 seeks potentially limitless discovery. ECF No. 24 at 13.

3 The Court finds that as phrased, this request is overbroad and seeks merits
4 discovery disproportionate to the needs of the case at the class certification stage.
5 *Talavera v. Sun Maid Growers of California*, 2017 WL 495635, at *4. Additionally, this
6 request appears to be duplicative of Requests 24-25. However, some discovery is
7 warranted.

8 Plaintiff's motion to compel is **DENIED IN PART** and **GRANTED IN PART**.
9 To balance the interests of both parties while permitting Plaintiff the opportunity to
10 present evidence as to a viable class, the Court finds the proper scope of discovery for the
11 purposes of production of documents in response to this request to be identical to
12 Requests 24-25, Sysco San Diego, Inc.'s facilities in existence and operation during the
13 time Plaintiff was employed. Defendant is **ORDERED** to produce any documents that
14 record or are otherwise used to calculate or record time worked that have not been
15 otherwise produced, e.g. time sheets, punch logs, etc. by **August 7, 2017**. Plaintiff's
16 counsel is **ORDERED** to meet and confer with Defendant's counsel (with ESI
17 representatives/vendors if necessary) to develop reasonable search terms and connectors
18 to identify and produce responsive emails by no later than **July 21, 2017**. Defendant
19 must produce responsive emails by **August 31, 2017**.

20 Request Nos. 37-39:

21 Request No 37: All of YOUR organizational charts for YOUR
22 California operations and/or the PUTATIVE CLASS
23 MEMBERS for the RELEVANT TIME PERIOD.

24 Request No. 38: All DOCUMENTS, EMAILS, and/or
25 communications concerning YOUR organizational charts for
26 YOUR California operations for the RELEVANT TIME
27 PERIOD.
28

1 Request No. 39: All DOCUMENTS, EMAILS, and/or
2 communications concerning YOUR corporate structure and/or
3 corporate hierarchy.

4 Defendant's responses includes objections and states it will produce organizational
5 charts. ECF No. 24-1, Ex. 2 [Page ID 545-547]. Plaintiff states that Defendant is
6 attempting to limit production to the San Diego location for request 37. ECF No. 24 at
7 11-12. Plaintiff's only basis to move to compel further responses to requests 38 and 39
8 appear to be that email documents were withheld. Defendant's Joint Motion section
9 indicates it is waiting for responsive documents and agreed to produce same. ECF No.
10 24 at 2, 12 [fn.2].

11 This request was directed to Defendant, Sysco San Diego, Inc. To the extent Sysco
12 San Diego, Inc. has organizational charts that reflect state-wide operations, they must be
13 produced. However, this request was not directed to Sysco Corporation, nor does it seek
14 documents showing the interaction of the two defendants. *See, e.g.*, Request No. 43
15 (discussed below).

16 If Sysco San Diego, Inc. operates solely in San Diego and thus, its organizational
17 charts reflect only San Diego operations, Plaintiff will need to pursue discovery from the
18 proper entity to obtain additional organizational information. The Court does not find
19 that "emails or communications" relating to corporate structure are relevant or
20 proportionate to the needs of the case when documents and/or charts should provide all
21 the relevant and necessary information. While Defendant remains bound by its
22 agreement to produce the responsive documents it is "awaiting," Plaintiff's motion to
23 compel further production to these requests is otherwise **DENIED**.

24 Request No 40:

25 All DOCUMENTS, EMAILS, and/or communications
26 concerning the last known ADDRESSES, telephone numbers,
27 and/or email addresses concerning all of the PUTATIVE
28 CLASS MEMBERS for the RELEVANT TIME PERIOD.

1 Defendant's response contains objections only on the grounds that the request is
2 overbroad, disproportionate and invades the privacy of its employees. ECF No. 24-1,
3 Ex. 2 [Page ID 548-549].

4 The Court agrees with Defendant that this request is disproportionate to the needs
5 of the case, overbroad, and invades the privacy of the employees. The Court ordered
6 contact information be produced in response to interrogatories, rendering this request
7 duplicative. Additional documentation is not necessary or proportionate to the needs of
8 the case or the purposes of class certification. Plaintiffs' motion to compel further
9 production is **DENIED**.

10 Request No 42:

11 All DOCUMENTS, EMAILS, and/or communications
12 concerning and/or supporting YOUR contention, if being made,
13 that YOU compensated any PUTATIVE CLASS MEMBER
14 under California Labor Code section 226.7(c) during the
RELEVANT TIME PERIOD.

15 Defendant's response contains objections only on the grounds that the request is
16 overbroad, disproportionate, and vague and ambiguous. ECF No. 24-1, Ex. 2 [Page ID
17 549-550]. The Joint Motion represents that Defendant agreed to provide supplemental
18 responses.

19 The Court finds Plaintiff's request proper, however, in light of Defendant's
20 agreement to supplement its response, the Court **DENIES AS MOOT** Plaintiff's motion
21 to compel any further production.

22 ***3. Request for Production of Documents, Set Two (Nos. 43 – 48 [Joint***
23 ***Employer Relationship])***

24 Plaintiff's Request 43-48 purportedly seek information regarding a joint employer
25 relationship. ECF No. 24 at 3-4. Defendant acknowledges Plaintiff's attempt to gather
26 information relevant to the factors that support a joint-employer relationship as set forth
27 in *Castenada v. The Ensign Group, Inc.*, 229 Cal.App.4th 1015, 1019 (Cal. App. 2d Dist.
28

1 2014).⁶ To obtain this information, Plaintiff seeks documents related to the structure of
2 Defendant and Sysco Corporation, as well as various broad categories of documents (e.g.
3 “operations” and “human resources”) from Ms. Theresa Livesay, the “Market HR
4 Business Partner for the Pacific Market” for Sysco Corporation, who was formerly
5 employed by Defendant as Vice President of Human Resources. ECF No. 24 at 5-6.

6 Request No. 43

7 Please produce all DOCUMENTS and charts depicting the
8 organizational structure between YOU and Sysco Corporation
9 during the RELEVANT TIME PERIOD.

10 Defendant’s response states it will produce responsive documents. ECF No. 24-1,
11 Ex. 3 [Page ID 557]. *Id.* In the Joint Motion, Defendant represents that it is awaiting
12 some documents and will produce upon receipt. ECF No. 24 at 3:1-3.

13 The Court finds this request proper. The Court acknowledges Defendant’s
14 response and efforts, but will impose a timeline for completion. It is hereby **ORDERED**
15 that Defendant produce documents responsive to Request No. 43 no later than **August 7,**
16 **2017.**

17 Request Nos. 44-48

18 Request Nos. 44-48 are as follows:

19 Request No. 44: Please produce all emails between Ms.
20 Theresa Livesay and any person employed by you during the
RELEVANT TIME PERIOD.

21 Request No. 45: Please produce all emails between Ms.
22 Theresa Livesay and YOUR employees regarding YOUR
23 operations sent during the RELEVANT TIME PERIOD.

24
25
26
27 ⁶ Factors include hiring and paying employees, supervising work, and exercising control
28 over how services are performed. *Castenada v. The Ensign Group, Inc.*, 229 Cal.App.4th
1015, 1019-1020 (Cal. App. 2d Dist. 2014).

1 Request No. 46: Please produce all emails between Ms.
2 Theresa Livesay and YOUR employees regarding human
3 resources issues sent during the RELEVANT TIME PERIOD.

4 Request No. 47: Please produce all emails between Ms.
5 Theresa Livesay and YOUR employees which reference and/or
6 refer to employees employed at Sysco San Diego, Inc. during
7 the RELEVANT TIME PERIOD.

8 Request No. 48: Please produce any and all DOCUMENTS,
9 reports, and/or memoranda Ms. Theresa Livesay sent and or
10 provided to any of YOUR employees during the RELEVANT
11 TIME PERIOD

12 In the Joint Motion, Defendant objects to Requests 44-48 as overbroad and
13 disproportionate to the needs of the case. The Court agrees. As phrased, these requests
14 seek every email and document exchanged between Ms. Livesay and any employee of
15 Defendant without limitation as to topic or relevance. *See*, Request Nos. 44-48; ECF no.
16 24-1, Ex. 3 [Page ID 557-558]. Plaintiff made no discernable attempt to tailor these the
17 requests to identify documents responsive to the factors as outlined in *Castenada v. The*
18 *Ensign Group, Inc.*

19 This Court will not compel such broad production. Plaintiff's motion to compel
20 further responses or documents in response to Request for Production Nos. 44-48 is
21 **DENIED.**

22 **III. Conclusion**

23 For the foregoing reasons, the Court **GRANTS IN PART** and **DENIES IN PART**
24 the Plaintiff's motion to compel consistent with the terms as set forth in this Order.

25 **IT IS SO ORDERED.**

26 Dated: July 7, 2017

27 

28 Hon. Nita L. Stormes
United States Magistrate Judge