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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

TREPCO IMPORTS & DISTRIBUTION, LTD,

Plaintiff

v.

ARIZONA BEVERAGES USA, LLC,

Defendant.

Case No.: 20CV521-DMS(BLM)

**ORDER GRANTING MOTION TO
COMPEL NON-PARTY RETAILERS TO
COMPLY WITH DOCUMENT
SUBPOENAS**

[ECF NO. 1]

Currently before the Court is Defendant Arizona Beverages USA LLC's March 19, 2020 Motion to Compel Non-Party Retailers to Comply with Document Subpoenas [see ECF No. 1-2 ("MTC")], the July 10, 2020 oppositions/responses of non-party retailers El Sol Market [see ECF No. 7 ("El Sol Oppo.")]¹, Quick Korner and Qwik Korner [see ECF No. 8 ("Quick Korner Oppo.")], Minute Mart and Golden State Market [see ECF No. 9 ("MM & GS Oppo.")], Paradise Liquor [see ECF No. 10 ("Paradise Oppo.")], Aztec Liquor [see ECF No. 11 ("Aztec Oppo.")], Cost Mart Inc. [see ECF No. 12 ("Cost Mart Oppo.")], 7-Q Liquor [see ECF No. 13 ("7-Q Oppo.")], and El Sol

¹ ECF No. 7, entitled Non-Party Deponent CD & V Imperial, Inc. dba El Sol Market's Opposition/Response to Defendant Arizona Beverages USA, LLC's Motion to Compel appears to be identical to ECF No. 14 also entitled Non-Party Deponent CD & V Imperial, Inc. dba El Sol Market's Opposition/Response to Defendant Arizona Beverages USA, LLC's Motion to Compel. For clarity, the Court will refer to both documents as "El Sol Oppo."

1 Market [see ECF No. 14 (“El Sol Oppo.”)], and Defendant’s July 17, 2020 Reply [see ECF No. 15
2 (“Reply”)]. For the reasons set forth below, Defendant’s motion is **GRANTED**.

3 **FACTUAL BACKGROUND**

4 This matter stems from an underlying case in the Central District of California, 18CV2605-
5 JGB(SP) and is related to 19-cv-02204-DMS-BLM, Trepcos Imports & Distribution, LTD v. Arizona
6 Beverages USA, LLC. MTC at 6. In the Central District case, Plaintiff Trepcos Imports &
7 Distribution, LTD alleges claims of price discrimination under the Robinson-Patman Act, 15 U. S.
8 C. § 13 (“RPA”). ECF No. 1-3, Declaration of Sharon G. Gelbart In Support of Arizona Beverages
9 USA LLC’s Motion to Compel Non-Party Retailers to Comply with Document Subpoenas (“Gelbart
10 Decl.”) at Exh. A (Second Amended Complaint in 18cv2605-JGB(SP)). Plaintiff alleges that
11 Defendant Arizona Beverages USA, LLC “violated the RPA by charging Trepcos a higher price for
12 its iced tea products than it charges to Trepcos’s alleged competitors.” MTC at 6; see also Gelbart
13 Decl. at Exh. A. Plaintiff, an independent wholesaler, sells Arizona Ice Tea and other beverages
14 to “retail convenience stores, liquor stores, gas stations, independent grocers and smoke shops.”
15 Id.; see also Gelbart Decl. at Exh. A at ¶ 13. Defendant sold cases of Arizona Ice Tea to Plaintiff
16 for \$12.19 a case, but beginning in 2012, Defendant informed Plaintiff that it was no longer
17 eligible for the \$12.19 price, and that the new price would be \$13.65 per case. Gelbart Decl. at
18 Exh. A ¶¶ 17-19. After the price increase, Plaintiff’s competitors continued to receive cases of
19 Arizona Ice Tea at lower prices. Id. at ¶ 19. Plaintiff specifically identified seventeen customers
20 from whom it lost sales after the price increase including

- 21 Quick Korner • 7-Q Liquor • Aztec Liquor • Minute ~~at~~ • Qwik Korner • Golden
22 Gate Market • Bobar No. 8 • Palm Ave Market • Bowm ~~as~~ Market • Neighbors
23 Market • Ace Liquor • Cost Mart • Bobar No • El Sol No. 3 • Twin Oaks • Central
24 Liquor • Paradise Liquor.

25 MTC at 6; see also Gelbart Decl. at Exh A ¶37.

26 **DISCOVERY BACKGROUND**

27 On July 25, 2019, Defendant served Requests for Production of Documents (“RFPs”) on
28 Plaintiff seeking information such as Plaintiff’s sales of Arizona Ice Tea products to its customers

1 from 2010 to the present. MTC at 7; see also Gelbart Dec. at ¶ 4, Exh. C. After objecting to
2 most of the requests, Plaintiff responded that “(1) it lost all of its transactional-level² electronic
3 sales data showing its sales of Arizona iced tea products from before August 2013;³ and (2) it
4 does not have accurate transactional-level electronic sales data showing its sales of Arizona iced
5 tea products for at least the first half of 2014.” Id.; see also Gelbart Decl. at ¶¶ 6-7; Exhs. D-
6 E. Plaintiff further responded that it does not maintain many of its paper records regarding past
7 purchase orders or invoices in an organized manner and could not confirm that those records
8 are exhaustive. Id.; see also Gelbart Decl. at ¶ 8, Exh. F.

9 On October 31, 2019, Defendant served document subpoenas on the seventeen retailers
10 identified in Plaintiff’s complaint as lost customers. Id. at 8; see also Gelbart Decl. at Exhs G-
11 W. The subpoenas seek responses to eleven RFP’s for the time frame of January 1, 2010 to the
12 present and do not seek any deposition testimony. Id. Responses to the subpoenas were due
13 on November 14, 2019. Id.; see also Gelbart Decl. at ¶ 10. None of the subpoenaed retailers
14 served any objections or responses to the subpoenas by November 14, 2019. Id. One retailer,
15 Central Liquor, requested an extension of time to respond which was granted, but the retailer
16 never objected or responded. Id. at n.5; see also Gelbart Decl. at ¶ 11.

17 On November 15, 2019, Plaintiff’s counsel emailed defense counsel objecting to the
18 subpoenas and filed a Motion for a Protective Order Re: 17 Document Subpoenas in the related
19

20 ² The term “transactional-level data” is used throughout this motion to refer to data showing,
21 for each individual sale or purchase, what products were sold or purchased at what price to
22 whom and when. It is the opposite of aggregate or summary data.

23 ³ Specifically, for the years 2010 to August-2013, Trepco claims to have lost all of its electronic
24 transactional-level data, i.e., all of the electronic data that would reveal when, how much, and
25 to whom Trepco sold Arizona iced tea products. (Gelbart Decl.¶ 6.) The only electronic data
26 that remains is yearly summary data showing Trepco’s total sales of Arizona iced tea products.
(Id.)

27 ⁴ Trepco claims that a software issue at its warehouses resulted in sales being wrongly counted
28 throughout part of 2014. As a result, it claims that at least half of the 2014 electronic
transactional-level sales data is inaccurate and unreliable. (Gelbart Decl. ¶ 7.)

1 Southern District case, 19-cv-02204-DMS-BLM, Trepcos Imports & Distribution, LTD v. Arizona
2 Beverages USA, LLC. Id. at 8; see also Gelbart Decl. at ¶¶ 12-13. On February 3, 2020, the
3 Court issued an order Denying Plaintiff's Motion. See Docket for 19-cv-02204-DMS-BLM at ECF
4 No. 6.

5 On February 10, 2020, Defendant attempted to contact each of the subpoenaed retailers
6 via letter and extended the deadline to respond to the subpoenas to February 18, 2020. MTC
7 at 8; see also Gelbart Decl. at ¶ 15, Exh. Z. None of the seventeen retailers responded or
8 reached out to Defendant for an extension of time to respond. Id.; see also Gelbart Decl. at ¶
9 16. On February 26, 2020, Defendant attempted to contact the retailers via telephone, but
10 either received no response, was promised a call back that never came, or was hung up on. Id.
11 at 9; see also Gelbart Decl. at ¶ 17. The one exception was Mr. Adel Yalda who owns at least
12 seven of the retailers at issue⁵ and who informed Defendant that he provided Plaintiff with
13 sample invoices on February 14, 2020 after speaking with Plaintiff's part owner and CEO, Mr. Al
14 Paulus. Id.; see also Gelbart Decl. at ¶¶ 18-19. Mr. Yalda agreed to send copies of the
15 paperwork to Defendant which he did on February 27, 2020, however, the production included
16 only one invoice for each of the seven stores. Id.; see also Gelbart Decl. at ¶ 20. Two days
17 after receiving the single invoice, on March 6, 2020, Plaintiff informed Defendant that it received
18 seven invoices from Mr. Yalda and emailed them to Defendant. Id. at 9-10; see also Gelbart
19 Decl. at ¶ 21. Defendant called Mr. Yalda on March 9 and 10, 2020 seeking additional responses
20 and requesting that Mr. Yalda send a letter by March 11, 2020 clearly stating what else, if
21 anything, he intended to produce. Gelbart Decl. at ¶ 22. Mr. Yalda did not send a letter or any
22 additional responsive documents. Id.

23 On March 19, 2020, Defendant filed a Motion to Compel Non-Party Retailers to Comply
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26 ⁵ Mr. Yalda owns or operates (1) Qwick Corner; (2) Quick Korner; (3) Minute Mart; (4) Golden
27 Gate Market; (5) Paradise Liquor; (6) Aztec Liquor; (7) Cost Mart; and (8) 7-Q Liquor. ECF No.
28 15-1, Declaration of David S. Harris in Support of Defendant Arizona Beverages USA LLC's Reply
in Support of Its Motion to Compel Non-Party Retailers to Comply with Document Subpoenas
("Reply Decl.") at ¶ 3; see also MTC at 9 n.6.

1 with Document Subpoenas. ECF No. 1. On June 10, 2020, the matter was transferred from
2 Judge Lorenz and Judge Dembin to Judge Sabraw and Judge Major pursuant to the low number
3 rule because this matter is related to 19-cv-02204-DMS-BLM, Trepcu Imports & Distribution,
4 LTD v. Arizona Beverages USA, LLC. ECF No. 4. On June 11, 2020, the Court issued a briefing
5 schedule requiring Defendant to serve a copy of the briefing schedule on Plaintiff Trepcu Imports
6 & Distribution, Ltd. and on all of the subpoenaed entities. ECF No. 5. The Court further ordered
7 that any opposition to the motion be filed on or before July 10, 2020 and any reply be filed on
8 or before July 17, 2020. Id. The parties and non-parties timely filed the pleadings as ordered.
9 See El Sol Oppo., Quick Korner Oppo., MM & GS Oppo., Paradise Oppo., Aztec Oppo., Cost Mart
10 Oppo., 7-Q Oppo., and Reply.

11 LEGAL STANDARD

12 A. Federal Rule of Civil Procedure 45 – Subpoena

13 Fed. R. Civ. P. 45 establishes the rules for subpoenas served upon individuals and entities
14 that are not parties to the underlying lawsuit. See Fed. R. Civ. P. 45. Objections to subpoenas
15 must be “served before the earlier of the time specified for compliance or 14 days after the
16 subpoena is served.” Fed. R. Civ. P. 45(d)(2)(B). If an objection is made, “[a]t any time, on
17 notice to the commanded person, the serving party may move the court for the district where
18 compliance is required for an order compelling production or inspection.” Fed. R. Civ. P.
19 45(d)(2)(B)(i). “These acts may be required only as directed in the order, and the order must
20 protect a person who is neither a party nor a party’s officer from significant expense resulting
21 from compliance.” Fed. R. Civ. P. 45(d)(2)(B)(ii).

22 Courts have broad discretion to determine whether a subpoena is unduly burdensome.
23 See Exxon Shipping Co. v. U.S. Dep’t of Interior, 34 F.3d 774, 779 (9th Cir. 1994); see also
24 Heidelberg Ams., Inc. v. Tokyo Kikai Seisakusho, Ltd., 333 F.3d 38, 41 (1st Cir. 2003). For
25 example, a subpoena is unduly burdensome where it seeks to compel testimony of a witness or
26 production of documents regarding topics unrelated to or beyond the scope of the litigation.
27 See Mattel, Inc. v. Walking Mountain Prods., 353 F.3d 792, 813-14 (9th Cir. 2003) (holding
28 subpoenas properly quashed where their overbreadth led the court to conclude that such

1 subpoenas were “served for the purpose of annoying and harassment and not really for the
2 purpose of getting information.”). Moreover, “if the sought-after documents are not relevant,
3 nor calculated to lead to the discovery of admissible evidence, then any burden whatsoever
4 imposed [] would be by definition ‘undue.’” Compaq Computer Corp. v. Packard Bell Elec., Inc.,
5 163 F.R.D. 329, 335-36 (N.D. Cal. 1995).

6 **DEFENDANT’S POSITION**

7 Defendant seeks an order from the Court compelling the subpoenaed retailers to comply
8 with the subpoenas. MTC at 18. Defendant argues that because none of the seventeen retailers
9 objected to the subpoenas by the response deadline, they have waived all objections. Id. at 10.
10 Defendant also argues that any objections that could have been made would have been
11 meritless because the document requests contained in the subpoenas are relevant, not unduly
12 burdensome or disproportionate to the needs of the case, and seek documents that cannot be
13 obtained from Plaintiff. Id. at 11-18.

14 **QUICK KORNER, MINUTE MART AND GOLDEN STATE MARKET, PARADISE**
15 **LIQUOR, AZTEC LIQUOR, COST MART, AND 7-Q LIQUOR’S POSITIONS⁶**

16 Quick Korner, Minute Mart and Golden State Market, Paradise Liquor, Aztec Liquor, Cost
17 Mart, and 7-Q contend that they have fully complied with the subject subpoenas. See Quick
18 Korner Oppo. at 2; MM & GS Oppo. at 2, Paradise Liquor Oppo. at 2, Aztec Liquor Oppo. at 2,
19 Cost Mart Oppo. at 2, and 7-Q Liquor Oppo. at 2; see also ECF Nos. 8-1, 9-1, 10-1, 11-1, 12-1,
20 and 13-1, Supporting Declarations of Maura Griffin (“Oppo. Decls.”) at ¶ 5. They also contend
21 that they have met and conferred with Defendant since March 2020 regarding the subject
22 subpoenas and that they provided an incomplete production to Defendant prior to retaining

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24 ⁶ All of the non-party retailers are represented by the same counsel and the oppositions are
25 nearly identical. The oppositions for Quick Korner, Minute Mart and Golden State Market,
26 Paradise Liquor, Aztec Liquor, Cost Mart, and 7-Q Liquor are identical. ECF Nos. 8-13. The
27 opposition for El Sol Market [see ECF Nos. 7 and 14] varies slightly as discussed later in the
28 order. All of the oppositions are supported by a declaration from Maura Griffin, the attorney
representing the non-party retailers. See ECF Nos. 7-1, 8-1, 9-1, 10-1, 11-1, 12-1, 13-1, and 14-
1.

1 counsel. Id.; see also Oppo. Decls. at ¶ 2. On June 18, 2020, the retailers produced additional
2 purchase orders and invoices “for Arizona Ice Tea from any vendor which represented all
3 purchase orders and invoices related to Arizona Ice Tea that the Business maintained[,]” but
4 only from 2017 to the present as they only retain business records for three years. Id.; see also
5 Oppo. Decls. at ¶ 3. After additional meeting and conferring, on July 7 and 8, 2020, the retailers
6 produced three additional batches of documents containing Trepro invoices for purchases of
7 any product for the last three years. Id.; see also Oppo. Decls. at ¶ 4. The retailers formally
8 responded to the subpoenas on July 10, 2020. Id. at 2-3; see also Oppo. Decls. at ¶ 5. The
9 retailers have produced all responsive documents in their possession except they have not
10 responded to Request No. 6 which they contend is overbroad, overburdensome, harassing, and
11 irrelevant, while acknowledging that they have waived their objections by not timely responding
12 to the subpoenas. Id. at 3; see also Oppo. Decls. at ¶ ¶ 5-6. After additional meet and confer
13 efforts, the retailers have “agreed to provide a declaration from the[ir] Business listing the
14 wholesalers from which it purchases (i) any product and (ii) Defendant’s products to the best
15 of its recollection in order to comply with this demand.” Id.; see also Oppo. Decls. at ¶ 6.
16 Defendant agrees that this will satisfy the information sought in Request No. 6. Id. at 4; see
17 also Oppo. Decls. at ¶ 7.

18 Quick Korner, Minute Mart and Golden State Market, Paradise Liquor, Aztec Liquor, Cost
19 Mart, and 7-Q further contend that because they have responded to the subpoenas with all of
20 the responsive documents in their possession and because Defendant does not seek sanctions
21 in its motion, the Court should deny the motion as moot. Id. Finally, Quick Korner, Minute Mart
22 and Golden State Market, Paradise Liquor, Aztec Liquor, Cost Mart, and 7-Q further note that
23 the magistrate judge in the Central District case limited Defendant’s discovery of Plaintiff’s sales
24 to sales only involving Defendant’s products and that Defendant never mentioned the magistrate
25 judge’s order limiting the scope of their discovery requests. Id. at 4-5; see also Oppo. Decls. at
26 ¶ 8.

EL SOL MARKET’S POSITION

28 El Sol Market contends that it retained business counsel on July 6, 2020 to assist them

1 with producing the responsive documents. El Sol Oppo. at 1-2.; see also ECF No 7-1, Declaration
2 of Maura Griffin (“Griffin Decl.”) at ¶ 2. Business counsel immediately contacted Defendant to
3 inform Defendant of their representation and that El Sol had provided hundreds of pages of
4 documents in response to the subpoenas. Id. at 2. On July 7, 2020, business counsel emailed
5 Defendant a Dropbox link to the documents which included purchase orders and invoices for
6 2016-2019. Id.; see also Griffin Decl. at ¶ 3. El Sol does not maintain records from before 2016
7 and, therefore, cannot produce any documents prior to 2016. Id.; see also Griffin Decl. at ¶ 2.
8 El Sol also formally responded to the subpoena on July 10, 2020. Id. at 2-3; see also Griffin
9 Decl. at ¶ 3, Exh. 1.

10 El Sol also contends that because it has responded to the subpoenas with all of the
11 responsive documents in their possession and because Defendant does not seek sanctions in its
12 motion, the Court should deny the motion as moot. Id. El Sol notes that the magistrate judge
13 in the Central District case limited Defendant’s discovery of Plaintiff’s sales to sales only involving
14 Defendant’s products and that Defendant never mentioned the magistrate judge’s order limiting
15 the scope of their discovery requests. Id.

16 **BOBAR NO. 8, PALM AVENUE MARKET, BOWMAN’S MARKET, NEIGHBORS**
17 **MARKET, ACE LIQUOR, BOBAR NO. 1, TWIN OAKS, AND CENTRAL LIQUOR’S**
18 **POSITIONS**

19 Non-Party retailers Bobar No. 8, Palm Avenue Market, Bowman’s Market, Neighbors
20 Market, Ace Liquor, Bobar No. 1, Twin Oaks, Central Liquor did not respond to the subpoenas
21 or oppose Defendant’s motion. See Docket; see also Reply at 2-3.

22 **DEFENDANT’S REPLY**

23 Defendant replies that the Court should order the eight retailers who have not responded
24 to the subpoenas to comply with the subpoenas. Reply at 2. Defendant also replies that the
25 remaining retailers responded and produced documents at the last minute and accordingly,
26 Defendant has not had time to confirm that the retailers have produced all responsive documents
27 and is still awaiting declarations from the retailers, including El Sol, who Defendant understands
28 will be providing Defendant a declaration as well even though it was not mentioned in El Sol’s

1 opposition. Id. at 2-4. Defendant asks that the Court grant the motion as to these retailers as
2 well so as to ensure their continued cooperation. Id.

3 **DISCUSSION**

4 If an opposing party fails to file opposition papers or a statement of non-opposition⁷ in
5 the manner required by CivLR 7.1.e.2, “that failure may constitute a consent to the granting of
6 a motion or other request for ruling by the court.” CivLR 7.1(f)(3)(c). Moreover, “[a] non-
7 party's failure to make timely objections to a Rule 45 subpoena generally results in the finding
8 that any objections have been waived.” On Demand Direct Response, LLC v. McCart-Pollak,
9 2019 WL 1867427, at * 1 (D. Nev., Apr. 25, 2019) (citing Moon v. SCP Pool Corp., 232 FRD 633,
10 636 (CD CA 2005) (citing Creative Gifts, Inc. v. UFO, 183 F.R.D. 568, 570 (D.N.M. 1998)); see
11 also F. Subpoena, Rutter Group Prac. Guide Fed. Civ. Pro. Before Trial Ch. 11(IV)-F (“Failure to
12 serve timely objections waives all grounds for objection, including privilege.”) (citing In re DG
13 Acquisition Corp., 151 F3d 75, 81 (2nd Cir. 1998) (privilege against self-incrimination waived by
14 delay) and Moon, 232 FRD at 636)). However, “[i]n unusual circumstances and for good cause,
15 ... the failure to act timely will not bar consideration of objections.” Moon, 232 F.R.D. at 636.
16 Unusual circumstances exist where the subpoena is overbroad on its face and exceeds the
17 bounds of fair discovery and the subpoenaed witness is a non-party acting in good faith. Id.

18 Here, non-parties Bobar No. 8, Palm Ave. Market, Bowman’s Market, Neighbors Market,
19 Ace Liquor, Bobar No. 1, Twin Oaks, and Central Liquor failed to respond to, comply with, or
20 object to Plaintiff’s subpoenas. They also failed to respond to defense counsel’s efforts to
21 communicate regarding the subpoenas and his efforts to arrange compliance. Gelbart Decl. at
22 ¶¶ 24-32 (explaining defense counsel’s efforts to call the retailers and not receiving an answer,
23 being hung up on, or promised a return call that never came). Finally, Bobar No. 8, Palm Ave.
24 Market, Bowman’s Market, Neighbors Market, Ace Liquor, Bobar No. 1, Twin Oaks, and Central

25 _____
26 ⁷ If a party chooses not to oppose a motion, “the party must file a written statement that the
27 party does not oppose the motion or other request for ruling by the court.” Civil Local Rule
28 (“CivLR”) 7.1(f)(3)(a).

1 Liquor failed to oppose Defendant's motion to compel, file a notice of non-opposition, seek
2 additional time to respond, or acknowledge the instant motion in any way. See
3 Docket. Additionally, a review of Defendant's pleadings indicates that the subpoenas were
4 properly completed, signed, and served. Gelbart Decl. at ¶¶ G-W. The Court also has reviewed
5 the subpoenas and determined that they are not overbroad on their faces and they do not
6 exceed the bounds of fair discovery. Accordingly, the Court **GRANTS** Defendant's motion as to
7 Bobar No. 8, Palm Ave. Market, Bowman's Market, Neighbors Market, Ace Liquor, Bobar No. 1,
8 Twin Oaks, and Central Liquor and makes the following findings:

- 9 1. Bobar No. 8, Palm Ave. Market, Bowman's Market, Neighbors Market, Ace Liquor,
10 Bobar No. 1, Twin Oaks, and Central Liquor have waived their rights to object to
11 the subpoenas.
- 12 2. Defendant's motion to compel compliance with the subpoenas is **GRANTED**.
- 13 3. Defendant is **ORDERED** to serve a copy of this order on Bobar No. 8, Palm Ave.
14 Market, Bowman's Market, Neighbors Market, Ace Liquor, Bobar No. 1, Twin Oaks,
15 and Central Liquor.
- 16 4. Bobar No. 8, Palm Ave. Market, Bowman's Market, Neighbors Market, Ace Liquor,
17 Bobar No. 1, Twin Oaks, and Central Liquor are **ORDERED** to provide a complete
18 response to the subpoenas **within two weeks of being served with this**
19 **order.**
- 20 5. Bobar No. 8, Palm Ave. Market, Bowman's Market, Neighbors Market, Ace Liquor,
21 Bobar No. 1, Twin Oaks, and Central Liquor's failure to comply with this order may
22 result in the imposition of sanctions.

23 With respect to the non-party entities that have produced documents in response to the
24 subpoenas, but still owe Defendant declarations, Defendant's motion is **GRANTED** as follows:

- 25 1. Defendant is **ORDERED** to serve a copy of this order on Quick Korner/Qwik
26 Korner, Minute Mart and Golden State Market, Paradise Liquor, Aztec Liquor, Cost Mart, 7-Q
27 Liquor, and El Sol Market.
- 28 2. Non-Parties Quick Korner/Qwik Korner, Minute Mart and Golden State Market,

1 Paradise Liquor, Aztec Liquor, Cost Mart and 7-Q Liquor are **ORDERED** to serve their
2 declarations "listing the wholesalers from which [they] purchase[d] (i) any product and (ii)
3 Defendant's products to the best of its recollection" on Defendant or before **August 12, 2020**.
4 It is unclear from the pleadings if El Sol Market also agreed to provide Defendant with a
5 declaration. If it has, that declaration must also be provided on or before **August 12, 2020**.

6 3. Failure to comply with this order may result in the imposition of sanctions.

7 **IT IS SO ORDERED.**

8 Dated: 7/28/2020


9 Hon. Barbara L. Major
10 United States Magistrate Judge
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