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CLERK OF COURT

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IN THE SUPERIOR COURT OF GUAM

KORASAN LLC dba MODA GINOS,

Plaintiff,

vs.

INTERNATIONAL ROYAL INC. dba
ROYAL DEFENDANTS and GURVINDER
SOBTI,

Defendants.

CIVIL CASE NO. CV0510-25

**DECISION AND ORDER DENYING IN
PART AND GRANTING IN PART
PLAINTIFF'S MOTION TO COMPEL**

Plaintiff Korasan LLC dba Moda Ginos moves to compel Defendants International Royal, Inc. dba Royal Bics and Gurvinder Sobti to respond fully to Plaintiff's Second and Third Requests for Production of Documents. Because Defendants failed to timely object, the Motion is GRANTED IN PART; however, because Plaintiff's discovery requests were overbroad and unduly burdensome, the Motion is DENIED IN PART.

I. PROCEDURAL HISTORY AND BACKGROUND

Moda Ginos alleges it is a licensed distributor of school uniforms for several Guam schools. In 2021, Moda Ginos entered a five-year contract with the Adacao Elementary School (AES) Parent Teacher Organization (PTO) to serve as the exclusive uniform supplier. Compl. (July 30, 2025), Ex. A. In 2023, Moda Ginos entered a four-year agreement with the Okkodo High School (OHS) Parent Teacher Student Association (PTSA) for the same exclusive purpose. *Id.*, Ex. A. And in 2025, they entered an agreement with the Simon Sanchez High School (SSHS) PTO to serve as that school's exclusive supplier for uniforms. *Id.*, Ex. A. The SSHS

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and OHS contracts contained a provision of assurance protecting Moda Ginos's exclusive rights by obligating those schools to demand other unauthorized suppliers to cease producing and distributing uniforms. *Id.*, Ex. A: SSHS Contract, conds. 4–5, OHS Contract, cond. 4.

Moda Ginos alleges that, beginning as early as 2021, Defendants represented themselves as authorized sellers of uniforms for those schools. *Id.* Moda Ginos further alleges that Defendants sold those uniforms despite lacking authorization. *Id.* Between July 2022 and July 2025, Moda Ginos, OHS, and SSHS each sent Defendants notices or cease-and-desist letters stating that Defendants lacked authority to sell the uniforms. *Id.* at ¶¶ 12–13, 16–17, 21. According to Moda Ginos, Defendants continued selling the uniforms after receiving those notices. *Id.* at ¶ 22. Moda Ginos alleges that Defendants still sell the uniforms, compete directly with Moda Ginos, and interfere with Moda Ginos's asserted contractual right to exclusive sales. *Id.*

The parties' present dispute concerns Moda Ginos's second and third requests for production. Defendants appear to have responded to Moda Ginos's first request for production. Moda Ginos served its second request on February 11, 2026, and its third request on February 13, 2026. Decl. Daniel J. Berman (Apr. 21, 2026).

Together, those requests contain Requests Nos. 11 through 38. They seek tax returns, tax filings, sales records, inventory records, bank statements, pricing schedules, supplier documents, communications with the schools, payroll records, and other financial materials spanning multiple years. *Id.*, Exs. A–B. Moda Ginos states that Defendants did not serve written responses within the thirty-day period prescribed by Guam Rule of Civil Procedure 34(b). *Id.* at ¶ 5. Moda Ginos then notified Defendants of the asserted failure to respond and agreed to a meet-and-confer. *Id.*, Ex. C. The parties met on April 9, 2026, at which time Defendants served

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written responses and objections, but produced no documents. *Id.* Moda Ginos then filed this Motion.

For their part, Defendants deny Moda Ginos's allegations. They contend, among other things, that they hold contractual rights concerning at least one school. Opp'n Mot. Compel (May 20, 2026). Defendants also contend that their April 9, 2026 responses were timely because the parties agreed to meet that day. *Id.* Defendants further argue that many requests are overbroad and seek records that they do not maintain in the ordinary course of business. *Id.* They state that their business uses manual inventory practices from individual sales. *Id.*; Gurvinder Sobti's Decl. Supp. Opp'n Mot. Compel (May 20, 2026).

The discovery dispute centers on the scope of Moda Ginos's requests. Moda Ginos seeks broad financial and sales data that it says bears on lost profits and damages, and that Defendants waived any objections by failing to timely respond. Defendants resist on the ground that the requests exceed the scope of discovery, seek records not maintained in the ordinary course of business, and impose an undue burden.

II. DISCUSSION OF LAW

A. Legal Framework

Guam Rule of Civil Procedure 26(b)(1) permits discovery of nonprivileged matter relevant to a party's claim or defense. Relevance is construed broadly but discovery must still bear a reasonable relationship to the issues in the case. Guam R. Civ. P. 26(b); *see generally In re Williams-Sonoma*, 947 F.3d 535, 539 (9th Cir. 2020). It must also remain proportional to the needs of the case. GRCP 26(b)(1). Rule 34 permits a party to request documents within the responding party's possession, custody, or control. GRCP 34(a)(1). The responding party must produce those documents as they are kept in the ordinary course of business or organize and

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label them to correspond with the request. GRCP 34(b). Discovery rules do not, however, require a party to create new documents, reconstruct information that it never recorded, or perform a new accounting analysis for litigation. *See* GRCP 34. A party cannot be compelled to produce documents that do not exist, and the burden to prove documents exist or are under the control of the responding party fall upon the party seeking production. *See Washington v. Garrett*, 10 F.3d 1421, 1437–38 (9th Cir. 1993) (defendants are “not required to create documents to satisfy . . . discovery requests”); *see also United States v. Int’l Union of Petroleum & Indus. Workers*, 870 F.2d 1450, 1452 (9th Cir. 1989). The rule also does not require a responding party to convert informal business practices into formal reports merely because the requesting party would prefer the information in that format. GRCP 34; *see also Reinsdorf v. Skechers U.S.A., Inc.*, 296 F.R.D. 604, 620–621 (C.D. Cal. 2013) (party need not create sales data in the requesting party’s preferred format).

Rule 37 authorizes a motion to compel when a party fails to respond, provides an incomplete response, or refuses to permit inspection. GRCP 37(a)(2)–(3). A court may also deny a motion that seeks information outside the proper scope of discovery or imposes an unreasonable burden. GRCP 26(b).

B. Untimely Objections

Moda Ginos served its second and third requests for production on February 11 and February 13, respectively. The requests allowed 30 days for a response, unless otherwise agreed upon in writing. GRCP 34(b). However, Defendants served no written response or objections during that period, and only served their written responses on April 9, 2026, during the parties’ meet-and-confer. Decl. Daniel J. Berman at ¶¶ 3–9, Exs. A–D. A party generally waives objections by failing to assert them within the time required by the discovery rules. *Richmark*

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Corp. v. Timber Falling Consultants, 959 F.2d 1468, 1473 (9th Cir. 1992) (“it is well established that a failure to object to discovery requests within the time required constitutes a waiver of any objection.”). Courts may excuse a late objection for good cause, but the responding party must provide a reasonable explanation for the delay. *See Blumenthal v. Drudge*, 186 F.R.D. 236, 240 (D.D.C. 1999) (a court has discretion to excuse a party’s failure to object for good cause shown).

Defendants have not shown good cause. They contend that the April 9, 2026 meet-and-confer effectively extended the response deadline. The record, however, shows only an agreement to meet and confer—it does not show a written agreement extending the deadline for serving objections. Nor does it provide the Court a reasonable explanation for delay.

The Court therefore finds that Defendants waived their objections to the requests. That finding resolves the procedural issue, but it does not require production of documents that do not exist, nor does waiver require the Court to compel discovery that is facially overbroad, insufficiently specific, or disproportionate to the needs of the case.

C. The Requests Are Overbroad as Drafted

Moda Ginos’s two discovery requests collectively seek documents under Request Nos. 11 through 38. The requests cover several years of tax returns, gross receipts, tax filings, sales records, financial statements, balance sheets, inventory records, point-of-sale information, supplier records, communications, marketing materials, payroll records, operating expenses, bank statements, general ledgers, and amendments to financial records. The problem is not that every category is irrelevant. Some categories may reasonably bear on Moda Ginos’s allegations concerning school uniform sales, alleged exclusive rights, and claimed damages. The problem is that Moda Ginos drafted the requests at a level of breadth that requires Defendants to search across multiple businesses, identify information that may not have been tracked by school or

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product, and create analytical summaries that Defendants say they do not maintain.

Several requests use expansive phrases such as “all documents,” “all schools,” “all sales,” or “all” financial information over multiple years. Other requests seek information by a particular school, product type, sales category, expense category, or accounting method without showing that Defendants maintain records organized in that manner. The requests therefore assume the existence of a sophisticated accounting and inventory system that Defendants have declared they do not use.

Mr. Sobti states that Royal Bics conducts business through manual inventory practices. Gurvinder Sobti's Decl. Supp. Opp'n Mot. Compel. He states that he counts inventory manually, determines what to order, and does not maintain running inventory records from individual sales. *Id.* at ¶¶ 6–7. He also states that Defendants have produced the company records they possess and that certain requested financial documents are not generated in the ordinary course of business. *Id.* at ¶¶ 7–9.

The Court accepts those statements for purposes of determining the appropriate scope of this Motion. A party may challenge the accuracy of a declaration at trial. But Rule 37 does not authorize the Court to order a party to create reports that its business did not create, or to reconstruct data that it did not record.

D. Requests Granted in Part

The Court grants Moda Ginos's Motion only as to the following identified requests and only to the limited extent stated below. The Court does not grant the Motion wholesale as to Requests Nos. 11–38.

- 1. Request Nos. 13–15, 19, 21, 25, and 32 – existing school uniform sales and related communications.** Defendants shall produce existing, nonprivileged documents in

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their possession, custody, or control that directly reflect sales of the school uniform products at issue to AES, OHS, or SSHS, during the periods placed at issue by the pleadings. Responsive documents include invoices, receipts, purchase records, payment records, point-of-sale records, and communications with those schools concerning sales, pricing, supply, authorization, or marketing. The production is limited to documents maintained in the ordinary course of business. Defendants need not create school-specific or product-specific reports that they did not maintain.

2. **Request No. 30 – supplier and purchasing records.** Defendants shall produce existing purchase orders, supplier contracts, supplier invoices, and payment records relating to the school-uniform products at issue and the relevant periods. This production does not extend to unrelated clothing, unrelated businesses, or transactions unrelated to the school-uniform products at issue.
3. **Requests Nos. 11, 12, 16, 17, 37, and 38 – existing financial and tax records reflecting the relevant business.** To the extent Defendants maintain income-tax returns, gross-receipts-tax filings, income statements, balance sheets, general ledgers, or amendments or corrections that reflect the relevant school-uniform business, Defendants shall produce the relevant existing portions or documents, subject to redaction or other appropriate protection for unrelated businesses, transactions, personal information, and third-party information. The Court does not require Defendants to prepare a new income statement, balance sheet, ledger, or other accounting analysis.

The Motion is DENIED as to Requests Nos. 18, 20, 22–24, 26–29, 31, and 33–36. Those requests, as drafted, are not sufficiently limited by account, transaction type, subject matter, or

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time period and are not proportional to the needs of the case under GRCP 26(b)(1)–(2). The requests also risk disclosure of unrelated transactions, private financial information, and third-party information without an adequate showing of a connection to the claims or defenses in this action.

The Court will not compel school-specific sales reports, inventory-turnover reports, shrinkage reports, employee-hour reports, incremental-expense calculations, or similar analytical materials unless Defendants maintained those materials in the ordinary course of business. A request that could be made specific but instead demands every document potentially related to a broad subject is not a proper basis for an order compelling production and is contrary to Rule 26's requirement that a discovery request is not unduly burdensome. GRCP 26(g)(2)(C).

E. Supplemental Responses and Production Deadline

Within **30 days** after service of this Order, Defendants shall complete production and serve verified supplemental responses for each request or category addressed by this Order.

For each category, Defendants shall state one of the following:

1. that responsive, nonprivileged documents exist and are being produced;
2. that responsive documents exist in another form and are being produced in the form maintained in the ordinary course of business; or
3. that after a reasonable inquiry and diligent search of reasonably accessible sources, no responsive documents are maintained or located.

If Defendants assert that no responsive documents exist, the verified response shall identify the sources searched, the persons consulted, and the basis for concluding that the requested records are not maintained or cannot be located. Defendants need not create documents or reconstruct information that was never recorded.

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Except for a privilege claim, inadvertent production, or a later-developed circumstance that could not reasonably have been known by the deadline, Defendants shall not assert new objections to the requests addressed by this Order after the production deadline. Any privilege claim must be timely and supported by a privilege log sufficient to evaluate the claim. The Court will not entertain repetitive, untimely, or generalized objections.

The discovery cutoff expired on May 29, 2026. Stip. Mot. & Order Extend Disc. Deadlines (Feb. 25, 2026). This Order requires only the supplemental production and verified responses expressly ordered to resolve Moda Ginos's timely filed Motion to Compel. It does not reopen discovery, authorize new discovery requests or depositions, or modify any deadline in the operative scheduling order. Any party seeking modification of a scheduling deadline must obtain leave of Court by separate motion upon a showing of good cause.

F. Fees and Costs

Rule 37 permits an award of expenses when a motion to compel is granted, but it also permits the Court to apportion expenses when the motion is granted in part and denied in part. GRCP 37(a). Moda Ginos made a good-faith effort to resolve the dispute before filing the Motion. Defendants, however, did not respond timely, and their April 9, 2026 responses did not include documents. Decl. Daniel J. Berman. ¶¶ 5–9. Because Defendants' untimely responses contributed to the need for the Motion, the Court may award Moda Ginos a portion of its reasonable fees and costs. And since Moda Ginos sought broad and insufficiently specific discovery and does not prevail on most of the relief requested, the Court will not award all fees incurred. The Court is inclined to limit an award to reasonable amounts attributable to obtaining the limited production ordered here.

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III. CONCLUSION AND ORDER

For the foregoing reasons, the Court GRANTS IN PART and DENIES IN PART Moda Ginos's Motion to Compel, as follows:

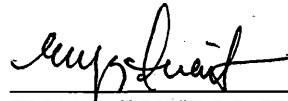
1. Defendants waived their objections when they failed to respond within 30 days.
2. The Motion is GRANTED only as to Requests Nos. 11–17, 19, 21, 25, 30, 32, and 37–38, and only to the limited extent expressly stated in Section D. No production is required of documents that do not exist, are not within Defendants' possession, custody, or control, or would require Defendants to create a new report, accounting analysis, or compilation.
3. The Motion is DENIED as to Requests Nos. 18, 20, 22–24, 26–29, 31, and 33–36. No production is ordered under those requests, and this Order does not authorize Moda Ginos to serve substitute, narrower, supplemental, or additional requests directed to those denied categories.
4. The Motion is DENIED as to the broader information sought under Requests Nos. 11–38, including unrestricted financial, banking, inventory, payroll, school-specific, or analytical materials not maintained in the ordinary course of business.
5. Defendants shall produce existing, nonprivileged documents in the limited categories identified above and shall serve verified supplemental responses addressing any granted category for which they maintain that no responsive document exists. Production and supplemental responses are due within **30 days** after service of this Order.
6. No further generalized or repetitive objections will be entertained as to the discovery addressed by this Order. Any later objection must fall within the limited exceptions

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stated in Section E.

7. Moda Ginos may submit a Statement of Attorney's Fees and Costs by September 8, 2026; Defendants may respond to the reasonableness of any such request by September 22, 2026; and Moda Ginos may reply by September 29, 2026.

SO ORDERED this 24 August 2026.



HON. ELYZE M. IRIARTE
Judge, Superior Court of Guam

Appearing Attorneys:

Daniel J. Berman, Esq., Law Office of Daniel J. Berman, for Plaintiff

Phillip Torres, Esq., Torres Law Group, for Defendants

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