

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JOSE VILLANUEVA,

Plaintiff,

v.

LAS VEGAS METROPOLITAN POLICE
DEPARTMENT, *et al.*,

Defendants.

Case No. 2:24-cv-00125-ART-DJA

ORDER ON ECF Nos. 70, 71, 72

Plaintiff Jose Villanueva sued Defendants Francis Soriano and the Las Vegas Metropolitan Police Department (“LVMPD”), for violations of state and federal law that occurred while he was detained at Clark County Detention Center (“CCDC”). (ECF No. 31.) Plaintiff brings a civil rights claim under 42 U.S.C. § 1983, Nevada constitutional and constitutional torts law claims, and battery and negligence claims. *Id.* Before the Court are three objections (ECF Nos. 70, 71, 72) that Plaintiff has raised in response to Magistrate Judge Albregts’ orders on three discovery-related motions (ECF Nos. 44, 43, 32 respectively).

I. LEGAL STANDARD

Magistrate judges are authorized to resolve pretrial matters subject to district court review under a “clearly erroneous or contrary to law” standard. 28 U.S.C. § 636(b)(1)(A); see also FED. R. CIV. P. 72(a); LR IB 3-1(a). A district court will thus defer to a magistrate judge’s non-dispositive order unless it is clearly erroneous or contrary to law. *Grimes v. City & Cnty. of San Francisco*, 951 F.2d 236, 240 (9th Cir. 1991). “A finding is clearly erroneous when although there is evidence to support it, the reviewing body on the entire evidence is left with the definite and firm conviction that a mistake has been committed.” *24-7 Grp. of Companies, Inc. v. Roberts*, No. 3:13-CV-00211-MMD-WGC, 2014 WL 12707232, at *2 (D. Nev. Nov. 21, 2014) (quoting *United States v. Ressam*, 593 F.3d 1095,

1 1118 (9th Cir. 2010)). “A decision is ‘contrary to law’ if it applies an incorrect legal
 2 standard or fails to consider an element of the applicable standard.” *Id.* (quoting
 3 *Conant v. McCoffey*, C97–0139, 1998 WL 164946, at *2 (N.D. Cal. Mar. 16, 1998)).

4 **A. Motion to Compel**

5 Generally, the “scope of discovery” is information “regarding any
 6 nonprivileged matter that is relevant to any party's claim or defense and
 7 proportional to the needs of the case.” FED. R. CIV. P. 26(b)(1). A trial court has
 8 “broad discretion” in permitting or denying discovery. *See Hallett v. Morgan*, 296
 9 F.3d 732, 751 (9th Cir. 2002). When a party refuses to respond to a discovery
 10 request, Federal Rule of Civil Procedure 37(a) permits a party to file a motion to
 11 compel a disclosure required under Rule 26 or to compel a discovery response.
 12 FED. R. CIV. P. 37(a). A motion to compel must be accompanied by a certification
 13 that demonstrates the movant has “in good faith conferred or attempted to confer”
 14 with the opposing party. *Id.* The party opposing discovery “bears the burden of
 15 showing why that discovery should be not permitted.” *TChutima, Inc. v. Abin*,
 16 2026 WL 105966 at *1 (D. Nev. Jan. 13, 2026).

17 **B. Motion for Protective Order**

18 Federal Rule of Civil Procedure 26(c) “confer[s] ‘broad discretion on the trial
 19 court to decide when a protective order is appropriate and what degree of
 20 protection is required.’” *Phillips ex rel. Ests. of Byrd v. Gen. Motors Corp.*, 307 F.3d
 21 1206, 1211 (9th Cir. 2002) (quoting *Seattle Times Co. v. Rhinehart*, 467 U.S. 20,
 22 36 (1984)). A court may issue a protective order when “good cause” exists to
 23 “protect a party or person from annoyance, embarrassment, oppression, or
 24 undue burden or expense.” FED. R. CIV. P. 26(c)(1). The party seeking a protective
 25 order bears the burden “of showing that specific prejudice or harm will result if
 26 no protective order is granted” with respect to each disputed document. *Foltz v.*
 27 *State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1130 (9th Cir. 2003) (citing *Phillips*
 28 *v. Gen. Motors Corp.*, 307 F.3d 1206, 1210–11 (9th Cir. 2002)).

II. Plaintiff's Objection (ECF No. 70) to Order Granting Motion to Compel Expert's ChatGPT History Log Is Granted In Part and Overruled In Part.

A. Facts and Procedural History

Plaintiff's expert witness, Tom Melton, testified in his October 1, 2025 deposition that he relied upon ChatGPT, an artificial intelligence program, to assist him with researching and drafting his expert report. (ECF No. 44 at 5–6). Prior to the deposition, Plaintiff did not disclose Melton's usage of artificial intelligence in response to Defendant's prior subpoena for "all data, documents, and other information considered by expert witness in forming the expert's opinions." *Id.* at 4–5. Defendants requested Plaintiff's production of the ChatGPT history log after the deposition, to which Plaintiff declined and subsequently designated as protected by "Attorney/Expert Work Product; Trial Preparation: Materials" within their discovery privilege log. (*Id.*; ECF No. 44-9 at 16).

Defendants filed a motion to compel the production of Plaintiff's expert Tom Melton's ChatGPT history log with respect to his preparation of his expert report. (ECF No. 44). Plaintiff opposed this motion (ECF No. 51) and Defendants filed a reply brief in support of the motion (ECF No. 63).

On December 23, 2025, Magistrate Judge Albregts held oral argument on Defendant's motion to compel (ECF No. 44), among other disputed motions. Judge Albregts granted Defendant's motion to compel Melton's ChatGPT history log from the bench, with the transcript of that proceeding (ECF No. 69) serving as the official order (*see* ECF No. 67). Judge Albregts held that the history log should have been disclosed under Federal Rules of Civil Procedure 26(a)(2)(B)(ii) and (iii) "because Melton considered it in forming and supporting his opinions." (ECF No. 69 at 26). He found that the history log was not work product, because it is not a draft report—the log was neither created by Melton nor does the log itself serve as a draft of the entire report. *Id.* Lastly, Judge Albregts found that attorney-client privilege did not protect the ChatGPT log and it should have thus

1 been disclosed like other materials an expert “would have relied upon in forming
2 his opinion.” *Id.* at 27.

3 Judge Albregts declined to review the 40-page history log *in camera*, instead
4 basing his decision on Plaintiff’s characterization of Melton’s usage of artificial
5 intelligence as falling into the following categories:

6 “(a) Much of the material asks for a case summary of certain controlling
7 court cases on excessive force, in other words legal research conducted by
8 the expert, (b) some inquiries ask ChatGPT to create a deposition outline
9 for an excessive force case, which apparently the expert used to predict
10 likely questions at deposition (classic trial/litigation preparation work), (c)
11 prompts to analyze and create what could be used as portions of a draft
12 report as to certain issues, such as qualifications of the opposing expert or
13 analysis of the opposing expert’s report (classic protected draft report
14 information).”

15 (ECF No. 51 at 4). Plaintiff filed an objection to the order granting
16 production (ECF No. 70) and Defendants filed a response in support of the order
17 (ECF No. 74).

18 **B. Discussion**

19 The Court finds that the order granting disclosure of the entirety of Melton’s
20 ChatGPT history log was “clearly erroneous or contrary to law.” For the reasons
21 stated below, the Court will grant in part and overrule in part Plaintiff’s objection.

22 Generally, a party may seek discovery “regarding any nonprivileged matter
23 that is relevant to any party’s claim or defense and proportional to the needs of
24 the case.” FED. R. CIV. P. 26(b)(1). Certain privileges, either absolute or qualified,
25 may protect a party from disclosing relevant information in discovery. Plaintiff
26 invokes both the trial preparation and expert work product privileges as grounds
27 for not disclosing Melton’s history log. (ECF No. 51 at 9).

28 A party or its “representative” may invoke the trial preparation privilege to
shield against the discovery of “documents and tangible things that are prepared

1 in anticipation of litigation or for trial.” FED. R. CIV. P. 26(b)(3)(A). Subject to Rule
2 26(b)(4) and upon a threshold showing of discoverability, “substantial need,” and
3 “undue hardship,” trial preparation documents may be subject to discovery. *Id.*
4 However, any court-ordered production of trial preparation materials must be
5 structured to “protect against disclosure of the mental impressions, conclusions,
6 opinions, or legal theories of a party's attorney or other representative.” FED. R.
7 CIV. P. 26(b)(3)(B).
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9 Expert witnesses may also invoke discovery privileges related to their draft
10 reports. In their expert report, expert witnesses are required to include “the facts
11 or data considered by the witness in forming” their opinion. FED. R. CIV. P.
12 26(a)(2)(B)(ii). Rule 26(a)(2)(B)(ii) was amended in 2010 to limit disclosures to
13 “facts or data considered,” instead of previous language on “data or other
14 information” that was interpreted by many courts as requiring the disclosure of
15 “all attorney-expert communications and draft reports.” FED. R. CIV. P. 26
16 advisory committee’s note to 2010 amendment. The rules distinguish between
17 the required disclosure of facts or data considered, and an expert’s drafts of their
18 report, which are protected from discovery. “Rules 26(b)(3)(A) and (B) protect
19 drafts of any [expert] report or disclosure required under Rule 26(a)(2).” FED. R.
20 CIV. P. 26(b)(4)(B).
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23 **i. Components of History Log That Must Be Disclosed**

24 First, the Court will consider which parts of Melton’s history log constitute
25 “facts or data” under the meaning of Rule 26(a)(2)(B)(ii) that must be disclosed as
26 part of his expert report. The Ninth Circuit’s interpreted Rule 26(a)(2)(B)(ii) and
27 the accompanying advisory committee notes to find that “the requirements
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1 should ‘be interpreted broadly’ to encompass ‘any material considered by the
2 expert, from whatever source, that contains factual ingredients.’” *Republic of*
3 *Ecuador v. Mackay*, 742 F.3d 860, 869 (9th Cir. 2014). The court emphasized
4 that disclosure required facts or data “considered” by the expert in forming their
5 opinions, “‘not only those relied upon by the expert.’” *Id.*

6 The legal case summaries generated by ChatGPT constitute “facts or data”
7 that Melton considered and must be disclosed under Rule 26. This Court finds
8 persuasive the reasoning in *Hirata v. S. Nevada Health Dist.*, 2016 WL 10706085
9 at *4 (D. Nev. 2016). The *Hirata* court found that an expert’s failure to disclose
10 summaries of thousands of pages of deposition materials as “facts and data”
11 considered in creating their report violated Rule 26(a)(2)(B)(ii). *Id.* Even if the
12 summaries were provided by the party calling the expert and the expert “only
13 consulted the summaries as a quick-reference guide, he still considered the
14 summaries within the meaning of Rule 26.” *Id.* Plaintiff explains that Melton used
15 the AI software to ask “for a case summary of certain controlling court cases on
16 excessive force.” (ECF No. 70). Because Melton generated case summaries and
17 “consulted” them to reach his expert opinion on excessive force, the ChatGPT-
18 generated case summaries constitute “facts or data” that are subject to disclosure
19 under Rule 26. *See also Jackson v. Tesla, Inc.*, 2024 WL 5011620 at *2 (N.D. Cal.
20 2024) (requiring disclosure of consultant’s work and analysis when expert
21 instructed consultant to sort through database and produce data to review for
22 report).

23 The Court overrules Plaintiff’s objection with respect to the production of
24 the ChatGPT history log responses related to case law summaries. Because AI-
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1 generated case summaries are “facts or data,” disclosure under Rule 26 requires
2 the disclosure of all case summary responses supplied by ChatGPT. As Defendant
3 correctly contends, the history log is the only place where Defendant can review
4 alleged “hallucinated case citations...quotes...and references to broad legal
5 standards” that Melton relied upon, or at least considered, to reach his opinion.
6 (ECF No. 74 at 2).

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8 **ii. Components of History Log That Are Protected From Disclosure**

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10 The Court finds it was clearly erroneous or contrary to law to order the
11 production of the entirety of Melton’s ChatGPT history, because Melton’s: 1)
12 questions and prompts to ChatGPT, 2) use of the program to create a deposition
13 outline, and 3) creation of a draft report are all protected from disclosure. The
14 Court grants Plaintiff’s objection with respect to these three categories of
15 information.

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17 First, the Court finds that Melton’s questions and prompts to ChatGPT are
18 not subject to disclosure. The threshold question is whether questions are “facts
19 and data” considered by Melton that are subject to disclosure under Rule
20 26(a)(2)(B)(ii). The Court finds that a question is not something that an expert can
21 “consider” or “rely” upon as “facts or data” in reaching their opinion, just as an
22 expert would not “consider” or “rely” upon their online research queries. Next, the
23 Court will determine whether Melton’s questions and prompts are protected by
24 any discovery privileges. Whether construed as part of an expert’s draft report
25 under Rule 26(b)(4)(B) or trial preparation materials under Rule 26(b)(3)(A), in
26 any case, discovery into Melton’s questions to ChatGPT would be impermissible.
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1 Based on the text of Rule 26 and accompanying advisory committee notes, the
2 Ninth Circuit stated that “the driving purpose of the 2010 amendments was to
3 protect opinion work product—i.e., attorney mental impressions, conclusions,
4 opinions, or legal theories—from discovery.” *Republic of Ecuador*, 742 F.3d at 870.
5 While Rule 26(b)(3)(A) provides a qualified privilege for an attorney or their
6 representative’s trial preparation materials (work product), disclosure cannot
7 include the “mental impressions, conclusions, opinions, or legal theories of a
8 party’s attorney or other representative concerning the litigation.” FED. R. CIV. P.
9 26(b)(3)(B). The Court finds Plaintiff’s argument persuasive that Melton’s
10 questions and prompts to ChatGPT reveal his “mental impressions or
11 strategy...as to what issues he found of particular importance” and Melton’s
12 theory of the case. (ECF No. 70 at 2). Because Melton’s questions are not “facts
13 or data” and impermissibly reveal his mental impressions and theories, the Court
14 finds that it was clearly erroneous or contrary to law to order the production of
15 this portion of the log.
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18 It was clearly erroneous or contrary to law to order Plaintiff’s production of
19 the portion of the ChatGPT log answers related to Melton’s creation of a deposition
20 outline. Plaintiff proffers that Melton used ChatGPT to “create a deposition outline
21 for an excessive force case, which apparently the expert used to predict likely
22 questions at deposition.” (ECF No. 51 at 4). Unlike case summaries, articles, or
23 print materials relied upon by an expert to reach their opinion, the Court finds
24 that a deposition outline is not “facts or data” within the meaning of Rule 26.
25 Instead of using ChatGPT’s outputs to inform his expert opinion, Melton used
26 ChatGPT’s responses to structure his preparation for his deposition and trial.
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1 Plaintiffs should not have to disclose the portion of the history log related to
2 deposition preparation. Some courts have interpreted the trial preparation
3 privilege under Rule 26(b)(3)(A) to extend to expert witnesses. *See Coppola v.*
4 *Smith*, 2015 WL 1537574 at *6 (E.D. Cal. 2015) (“Expert opinions are protected
5 by the work product doctrine, which extends to litigation consultants and
6 retained experts.”). Even assuming that no privileges apply to Melton’s creation
7 of a deposition outline on ChatGPT, the Court still finds that production is barred
8 under Rule 26(b)(3)(B). Melton’s creation of a deposition outline would
9 impermissibly disclose his “mental impressions, conclusions, opinions, or legal
10 theories,” because such an outline would reveal Melton’s focus, priorities, or
11 areas of concern to address in the deposition and at trial. *See* FED. R. CIV. P.
12 26(b)(3)(B).

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15 Lastly, it was clearly erroneous or contrary to law to order Plaintiff’s
16 production of the portions of the history log related to Melton’s creation of a draft
17 report. The Court finds that Melton’s prompts to create a draft report on “certain
18 issues, such as qualifications of the opposing expert or analysis of the opposing
19 expert’s report” (ECF No. 70 at 3) is squarely within the protections of an expert’s
20 draft reports. Rule 26(b)(4)(B) mandates the protection of expert drafts “regardless
21 of the form in which the draft is recorded.” Melton testified to sometimes copying
22 and pasting the outputs of ChatGPT into his own report. (*See* ECF No. 44 at 6).
23 It appears that Melton’s usage of the ChatGPT responses was to assist in his
24 writing and analysis of his expert report, rather than to create “facts or data” to
25 consider in forming his opinion. Defendant argues that ChatGPT’s responses are
26 not Melton’s “own generation of a report,” (ECF No. 44 at 12–13), and is therefore
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1 not protected as an expert draft report under Rule 26(b)(4)(B). The Court finds
2 that Melton's creation of a draft report on ChatGPT is protected as a draft report,
3 because Melton testified that some of this information was directly incorporated
4 into his own written report. Even if the ChatGPT output is not a draft report
5 protected under Rule 26(b)(4)(B), it would still be mental impressions protected
6 from disclosure under Rule 26(b)(3)(b). As addressed above, the ChatGPT
7 responses would provide direct insight into Melton's "mental impressions" and
8 "legal theories" that he considered relevant in a report.
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10 Plaintiff raises multiple objections to the production of Melton's entire
11 ChatGPT history log, many of which have been addressed above. The Court notes
12 that Plaintiff also raises an objection that it was clear error for Judge Albregts to
13 not conduct an in camera review of the ChatGPT history log. (ECF No. 74 at 4–
14 5). Having conducted an in camera review of the history log, the Court finds that
15 Judge Albregts did not clearly err in relying upon Plaintiff's good-faith
16 representation of the history logs. *See Ideal Elec. Co. v. Flowserve Corp.*, 230
17 F.R.D. 603, 610 (D. Nev. 2005) ("As has been previously stated in this district, *in*
18 *camera* review is generally disfavored."). Plaintiff also objects to the extent that
19 there was any finding that privilege was waived by Melton's usage of ChatGPT.
20 (ECF No. 70 at 7). It appears that Judge Albregts did not reach a decision on
21 whether the log was privileged, and if so, if any such privilege was waived by
22 Melton's disclosure of information to ChatGPT. (See ECF No. 69 at 22–23).
23 Because ChatGPT is not a person, but was an application used in this instance
24 as a research, drafting, and editing program, the Court finds that any privileged
25 information is not waived by Melton's use of the program. The Court also notes
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1 that many of Defendant's concerns about Melton's methodology and reliance on
2 ChatGPT are appropriate to address at trial as matters of impeachment.

3 Therefore, the Court grants in part and overrules in part Plaintiff's objection
4 to the production of Melton's ChatGPT log.

5 **III. Plaintiff's Objection (ECF No. 71) to Order Denying Motion to**
6 **Compel Responses Regarding Punitive Damages is Overruled.**

7 **A. Facts and Procedural History**

8 The next objection arises from a dispute about Plaintiff's discovery requests
9 seeking Defendant Soriano's financial information for the purpose of punitive
10 damages. Soriano is the individual officer against whom Plaintiff brings their
11 claims. Plaintiff served Soriano with a second set of interrogatories and requests
12 for admission on June 2, 2025, seeking financial information about: sources of
13 income, business interest ownership, real property ownership, property of
14 significant value, financial accounts in Soriano's name, debts and liabilities,
15 substantial gifts of property transfers, investments, financial advisors, state and
16 federal tax returns, recent paystubs, and loan applications, among other data
17 over set periods of time. (See ECF No. 43-1, 43-2). Soriano raised objections to
18 each request, "mainly objecting based on precedent recognizing that deferral of
19 punitive damages discovery is appropriate...based on policy interests behind
20 immunity defenses." (ECF No. 48 at 7). The parties were unable to reach
21 agreement on the issue of deferred discovery related to punitive damages. *Id.*

22 On October 15, 2025, Plaintiff filed a motion to compel Soriano's responses.
23 (ECF No. 43). Defendants jointly opposed the motion and filed a counter-motion
24 for a protective order of Soriano's financial information. (ECF Nos. 48, 49).
25 Plaintiff filed a reply brief in support of their motion (ECF No. 57) and a response
26 brief to Defendants' counter-motion (ECF No. 61). Defendants in turn filed a reply
27 brief in support of their counter-motion. (ECF No. 65).

28 Judge Albregts considered both motions during the December 23, 2025

1 oral argument. Ruling from the bench, he denied Plaintiff's motion to compel (ECF
2 No. 43) and granted Defendant's motion for a protective order (ECF No. 49). Judge
3 Albregts found that Ninth Circuit precedent established that discovery into a
4 "defendant's financial condition is relevant to the pursuit of punitive damages."
5 (ECF No. 69 at 15). He balanced the need for Soriano's information against the
6 resolution of qualified immunity defenses, acknowledging that many courts have
7 deferred discovery until dispositive defenses were resolved. *Id.* at 16. Judge
8 Albregts held that it was "clear" that Plaintiff was "entitled" to Soriano's financial
9 information, should the claims survive dispositive motions. *Id.*

10 Plaintiff filed an objection to the order denying their motion to compel in
11 January 2026 (ECF No. 71), which Defendant opposed (ECF No. 75). Almost two
12 months later, Defendant filed a notice of supplemental authority (ECF No. 81).
13 Plaintiff then filed their own notice of supplemental authority (ECF No. 82), which
14 Defendant filed a response to (ECF No. 83). At the time that Plaintiff filed their
15 three objections, the Court had not yet ruled on Defendants' motion to dismiss
16 (ECF No. 34). The Court granted in part and denied in part the motion to dismiss
17 in February 2026 (ECF No. 76). In July 2026, Defendants Soriano (ECF No. 95)
18 and LVMPD (ECF No. 96) filed respective motions for summary judgment that
19 remain pending before the Court.

20 **B. Discussion**

21 Under the "clearly erroneous or contrary to law" standard, the Court agrees
22 with Judge Albregts' order (ECF No. 69) denying Plaintiff's motion to compel
23 Defendant Soriano's discovery responses related to punitive damages (ECF No.
24 43). Judge Albregts held that discovery into punitive damages could proceed after
25 dispositive motions addressing qualified immunity were resolved. (ECF No. 69).
26 Defendants have met their burden showing that discovery should not be
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1 permitted at this stage of litigation.

2 Judge Albregts did not commit a clear error or issue an order contrary to
3 law in structuring the discovery of punitive damages after dispositive motions on
4 qualified immunity were resolved. The Supreme Court and courts within the
5 Ninth Circuit have held that such flexibility is permissible within the Federal
6 Rules of Civil Procedure. Because the court has discretion in setting the “timing
7 and sequence of discovery,” it may order that the “threshold question” of qualified
8 immunity be resolved before permitting discovery. *See Crawford-El v. Britton*, 523
9 U.S. 574, 598-99 (1998) (citing *Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982)).
10 Within the context of actions brought under 42 U.S.C. § 1983, Judge Albregts
11 found that some courts have “delayed discovery into a defendant’s financial
12 condition...pending resolution of a qualified immunity claim.” (ECF No. 69 at 16)
13 (citing *Klein v. City of Beverly Hills*, 2015 WL 13906841 (C.D. Cal. 2015)
14 (collecting cases)). This Court agrees that it is within the court’s discretion to
15 delay discovery until the qualified immunity issues are fully adjudicated.

16 Plaintiff raises several arguments in support of their objection to Judge
17 Albregts’ order. Plaintiff argues that staying discovery will prevent follow-up
18 discovery on punitive damages until after the discovery period ends, in addition
19 to either delaying trial or prejudicing Plaintiff with a short runway to trial. (ECF
20 No. 71 at 4). Plaintiff emphasizes that courts have consistently found that
21 discovery into a defendant’s financial status is relevant to a claim asserting
22 punitive damages, and that a majority of courts do not stay discovery of punitive
23 damages pending resolution of dispositive motions. *Id.* at 5. Additionally,
24 Plaintiffs distinguish caselaw permitting stays of discovery in cases bringing
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1 § 1983 actions from this case, because Plaintiff's state constitutional and
2 constitutional tort claims will survive Defendants' arguments on federal qualified
3 immunity defenses. *Id.* at 6. Plaintiff also questioned the appropriateness of the
4 order, given that at the time it was issued, Defendants had not filed any
5 dispositive motions related to qualified immunity defenses. *Id.* at 7.

6 Plaintiff's objections do not rise to the level of clear error or a decision
7 contrary to law. As discussed above and acknowledged by Plaintiff, the Court has
8 discretion in structuring discovery and "there is a line of cases finding that in
9 civil rights cases where qualified immunity might be asserted the discovery can
10 be stayed." (ECF No. 71 at 6). Even if a "majority" of courts, as Plaintiff contends,
11 permit discovery into a defendant's financial conditions after punitive damages
12 have been pled, an order that stays discovery is consistent with binding precedent
13 and not clearly erroneous or contrary to law. Judge Albregts noted that the
14 financial information is "relevant" and Plaintiff is indeed "entitled" to the
15 information should their claims survive the dispositive motions. (ECF No. 69 at
16 15–16). Simply put, Judge Albregts considered the discovery request
17 "premature." *Id.* at 21. Even if Plaintiff is successful in their state constitutional
18 and constitutional torts claims, they are not precluded from ever accessing this
19 information. Judge Albregts weighed the harm of delay to the scheduled trial date
20 and parties' future good-faith efforts to cooperate in providing the information
21 regarding punitive damages. *Id.* at 18–21. Since this order has been issued,
22 judgment has been granted on a motion to dismiss (ECF No. 76) and motions for
23 summary judgment (ECF Nos. 95, 96) have been filed. Because the order did not
24 deny all discovery into punitive damages but instead shifted the window of time
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1 in which Plaintiff could seek this information, the Court finds that Plaintiff's
2 objections fail.

3 Plaintiff's arguments ultimately hinge on policy disagreements that the
4 order "will only favor defendants and will always work against plaintiffs" (ECF No.
5 71 at 7) than legal objections. The Court thus overrules Plaintiff's objection (ECF
6 No. 71) to the order denying Plaintiff's motion to compel.

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8 **IV. Plaintiff's Objection (ECF No. 72) to Order Denying Protective Order
on Requests for Admission is Overruled.**

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10 **A. Facts and Procedural History**

11 Defendant LVMPD served 49 requests for admission on Plaintiff and
12 Defendant Soriano served 82 requests for admission on Plaintiff. (ECF No. 32 at
13 2). Plaintiff requested that Defendants withdraw the 131 total requests as
14 improper and harassing. *Id.* After correspondence and attempts at a meet-and-
15 confer, the parties were unable to reach an agreement. (ECF No. 33 at 5–6).
16 Plaintiff then filed a motion for a protective order, seeking for all 131 requests for
17 admission to be "stricken entirely." (ECF No. 32 at 14). Defendant objected to this
18 protective order (ECF No. 33) and Plaintiff filed a reply in support of the order
(ECF No. 35).

19 On December 23, 2025, Judge Albregts heard oral argument on Plaintiff's
20 motion for a protective order. His ruling from the bench denied the motion (ECF
21 No. 69). Judge Albregts held that Plaintiff "cannot dictate how [Defendant]
22 conduct[s] discovery" and that it was permissible for the requests for admission
23 to go to "the ultimate factual and legal issues." *Id.* at 8. While Judge Albregts
24 called into question how many of the requests were necessary, he did not "find
25 that as a whole they were all improper" and emphasized the "leeway" parties have
26 in structuring their discovery. *Id.* at 10. Judge Albregts held that the sheer
27 number of requests for admission was not a justification for holding that the
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1 entirety of the requests were improper. *Id.* Additionally, he ordered that Plaintiff
2 file individualized objections or responses to each request for admission, because
3 Plaintiff previously raised a “blanket response” to each request. *Id.*

4 Plaintiff objected to Judge Albregts’ denial of their protective order (ECF No.
5 72) and Defendant responded in support of the denial (ECF No. 73).

6 **B. Discussion**

7 The Court overrules Plaintiff’s objection (ECF No. 72) to Judge Albregts’
8 order (ECF No. 69) denying Plaintiff’s motion for a protective order over its
9 responses to Defendants’ requests for admission (ECF No. 32) under the “clear
10 error” or “contrary to law” standard. Plaintiff failed to meet their burden “of
11 showing that specific prejudice or harm will result if no protective order is
12 granted” with respect to each disputed document. *Foltz*, 331 F.3d at 1130.

14 Plaintiff raises multiple arguments in support of their objection to the order
15 denying their motion for a protective order, which the Court will address in turn.
16 First, Plaintiff contends that the “sheer number” of the total 131 requests for
17 admission is evidence that the discovery is excessive or harassing. (ECF No. 72
18 at 3–4). Plaintiff also argues that the requests for admission are impermissibly
19 disguised interrogatories that are barred under the Federal Rules of Civil
20 Procedure, because requests for admission (unlike interrogatories) should not go
21 to disputed or material facts or legal issues. *Id.* at 4–5. Plaintiff claims that Judge
22 Albregts committed clear error when disregarding Nevada state case law on the
23 proper scope of requests for admission, because “there is no substantive
24 difference between the Nevada and Federal rules of civil procedure on this point
25 of law.” *Id.* at 8. As a result, Plaintiff argues that Defendants have exceeded the
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1 set limit on the number of total interrogatories a party can issue, and the order
2 is thus in clear error. *Id.* at 4–5. Lastly, Plaintiff claims that Judge Albregts
3 committed clear error in requiring Plaintiff to submit individualized objections or
4 responses to each request for admission. *Id.* at 8. Plaintiff contends that their
5 blanket objection was appropriate, because they objected to “all” 131 requests
6 and compliance with this order would have required Plaintiff to exceed the local
7 rules’ page limitation in copying 28 pages of requests for judicial review. *Id.*

8
9 Judge Albregts’ order was not clearly erroneous or contrary to law in
10 declining to find that the total amount of requests for admission is abusive. Judge
11 Albregts correctly noted that the Federal Rules of Civil Procedure do not impose
12 a limit on the number of requests for admission a party can issue. (ECF No. 69
13 at 7). Requests for admission stand in contrast to interrogatories, which are
14 subject to a numerical threshold. *See* FED. R. CIV. P. 33. Courts do “not readily
15 grant protective orders against an entire set of discovery requests on the grounds
16 that the number of requests is excessive.” *Jones v. Skolnik*, 2014 WL 2625000 at
17 *2 (D. Nev. June 12, 2014). This Court, like Judge Albregts, finds Plaintiff’s
18 argument for relief on the basis of sheer quantity to be unconvincing.
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21 The Court finds that the denial of the protective order was not clearly
22 erroneous or contrary to law by, as Plaintiff contends, permitting disguised,
23 impermissible interrogatories beyond the scope of requests for admission. As an
24 initial matter, the Court agrees with Judge Albregts that cases invoking Nevada
25 rules of civil procedure are inapplicable to this case. (*See* ECF No. 69 at 7). The
26 Federal Rules of Civil Procedure are binding upon this Court, *see* FED. R. CIV. P.
27 1, not Nevada state rules of civil procedure. *See Shady Grove Orthopedic Assocs.*
28

1 *v. Allstate Ins. Co.*, 559 U.S. 393 (2010); *Hanna v. Plumer*, 380 U.S. 460 (1965).

2 To the extent that Petitioner relies upon cases interpreting state rules of civil
3 procedure, they are not binding upon the court.

4 Plaintiff could not provide binding authority that cabins requests for
5 admission so narrowly as to exclude all material or disputed facts or legal issues.
6 Judge Albregts acknowledged that the proper scope of such requests is to
7 “facilitate proof with respect to issues that cannot be eliminated from the case
8 and, second, to narrow the issues by eliminating those that can be.” *Conlon v.*
9 *United States*, 474 F.3d 616, 622 (9th Cir. 2007). However, both the Federal Rules
10 of Civil Procedure and precedent foreclose Plaintiff’s expansive argument. As
11 Judge Albregts noted, the federal rules permit requests for admission relating to
12 “facts, the application of law to fact, or opinions about either.” FED. R. CIV. P.
13 36(a)(1)(A). Commentary to Rule 36 explains that when requests go to matters “in
14 dispute,” the appropriate response is for a party to answer the request, because
15 the “very purpose of the request” is to determine a party’s stance towards
16 admitting an issue or presenting it as a “genuine issue for trial.” FED. R. CIV. P.
17 36 advisory committee’s note to 1970 amendment. Judge Albregts was correct
18 that a request for admission could be permissible, even if it “relates to an ultimate
19 fact or could prove dispositive of the entire case.” (ECF No. 69 at 8). Requests for
20 admission that go to “the heart of the litigation” are still permissible. *See Wells*
21 *v. Glob. Tech Indus., Inc.*, 2022 WL 4626014 at *2 (D. Nev. Sept. 30, 2022).

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25 Lastly, it was not clearly erroneous or contrary to law for Judge Albregts to
26 order Plaintiff to file individualized objections or responses to each request for
27 admission. Indeed, the local rules require parties filing a motion for a protective
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1 order to “set forth in full the text of the discovery originally sought and any
2 response to it.” D. NEV. R. 26-6(b). Plaintiff was required to file their individualized
3 objections for both the Court and Defendant to review.

4 **V. CONCLUSION**

5 IT IS THEREFORE ORDERED THAT Plaintiff’s objection
6 (ECF No. 70) is granted in part and overruled in part.

7 IT IS THEREFORE ORDERED THAT Plaintiff’s objections (ECF Nos. 71, 72)
8 are overruled.
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10 DATED THIS 29th day of September 2026.
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14 ANNE R. TRAUM
15 UNITED STATES DISTRICT JUDGE
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