IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

PORTLAND DIVISION

SCHNITZER STEEL INDUSTRIES, INC., et al.,

No. 3:10-cy-01174-PK

Plaintiffs,

OPINION AND ORDER

v.

CONTINENTAL CASUALTY COMPANY, et al.,

Defendants.

MOSMAN, J.,

On March 9, 2012, Magistrate Judge Papak issued his Findings and Recommendation ("F&R") [124] in the above-captioned case, recommending that plaintiff's motion for partial summary judgment [67] be granted in part and denied in part. Judge Papak also recommended that plaintiff's motion for leave to supplement the evidentiary record [118] be denied and defendants' motion for partial summary judgment be denied [70]. Lastly, Judge Papak recommended that plaintiff's motion to compel [84] be granted in part. Defendants filed objections [131] and plaintiffs responded [133]. Defendants also filed a motion to strike [134] plaintiffs' response to the objections.

DISCUSSION

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge,

1 – OPINION AND ORDER

but retains responsibility for making the final determination. The court is generally required to

make a de novo determination regarding those portions of the report or specified findings or

recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the

court is not required to review, de novo or under any other standard, the factual or legal

conclusions of the magistrate judge as to those portions of the F&R to which no objections are

addressed. See Thomas v. Arn, 474 U.S. 140, 149 (1985); United States v. Reyna-Tapia, 328

F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to

review the F&R depends on whether or not objections have been filed, in either case, I am free to

accept, reject, or modify any part of the F&R. 28 U.S.C. § 636(b)(1)(C).

Upon review, I agree with Judge Papak's recommendation, except as regards Plaintiff's

motion for partial summary judgment [67]. Except as noted, I ADOPT the conclusions of the

F&R [124] as my own opinion. Plaintiff's motion for partial summary judgment [67] is

DENIED in entirety because resolution of the issues raised is premature. Plaintiff's motion for

leave to supplement the evidentiary record [118] is DENIED. Defendants' motion for partial

summary judgment [70] is DENIED. Plaintiff's motion to compel [84] is GRANTED IN

PART. Additionally, defendants' motion to strike [134] plaintiffs' response to the objections is

DENIED.

IT IS SO ORDERED.

DATED this <u>5th</u> day of September, 2012.

/s/ Michael W. Mosman

MICHAEL W. MOSMAN

United States District Court

2 – OPINION AND ORDER