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**United States District Court
Central District of California**

10 ABDOLLAH NOURI,

11 Plaintiff,

12 v.

13 RYOBI AMERICA CORPORATION, a
14 subsidiary of ONE WORLD
15 TECHNOLOGIES, INC.; HOME DEPOT
16 USA, INC.; and DOES 1-50, inclusive
17 Defendants.

Case No. CV 2:14-6283-ODW(PJWx)

**ORDER DENYING DEFENDANT
HOME DEPOT USA, INC.'S
MOTION TO STRIKE PUNITIVE
DAMAGES [7]**

18 **I. INTRODUCTION**

19 Before the Court is Defendant Home Depot USA, Inc.'s Motion to Strike
20 Punitive Damages from Plaintiff's Complaint paragraphs 22 through 24, inclusive,
21 and Prayer paragraph 7 pursuant to Federal Rule of Civil Procedure 12(f). (ECF No.
22 7.) For the reasons discussed below, the Court DENIES Defendant's Motion.¹

23 **II. FACTUAL BACKGROUND**

24 On June 22, 2012, Abdollah Nouri used a Ryobi circular saw to cut a 2 x 2
25 piece of wood. (Compl. ¶ 6.) When the wood became lodged between the blade and
26 the guard of the saw Nouri attempted to remove it with his hand. (Compl. ¶ 7.) At
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28 ¹ After carefully considering the papers filed in support of and in opposition to the Motion, the Court
deems the matter appropriate for decision without oral argument. Fed. R. Civ. P. 78; L.R. 7-15.

1 this point, the saw became active and severed Nouri’s left index finger. (Compl. ¶ 7-
2 8.) That same day Nouri underwent surgery with Dr. Bruce M. Ascough. (Compl. ¶
3 9.) Nouri suffered pain, bruising, swelling, and the loss of his index finger, which has
4 made it difficult for him to engage in daily tasks. (Compl. ¶ 10.)

5 On June 18, 2014, Nouri filed suit against Ryobi America Corporation
6 (“Ryboi”), a subsidiary of One World Technologies, Inc., and Home Depot USA, Inc.
7 (“Home Depot”) in Los Angeles Superior Court alleging three causes of action: (1)
8 Strict Products Liability—Design Defect; (2) Negligence; and (3) Failure to Warn.
9 (Compl. ¶ 1.) The first two apply only to Ryobi and the third applies to Ryobi and
10 Home Depot. (Compl. ¶ 3-7.)

11 In the First Cause of Action, Plaintiff alleges that “the conduct and acts of
12 Defendant Ryobi...in allowing such an extremely dangerous saw to be used by a
13 member of the general public...constitute fraud, malice, and oppression toward
14 Plaintiff and a willful and conscious disregard of the safety of Plaintiff.” (Compl.
15 ¶ 22.) Plaintiff further alleges that Defendant Ryobi “had advance knowledge of the
16 unfitness of any employee” responsible for the actions and omissions alleged in the
17 Complaint, and that Defendant Ryobi “authorized the ratified wrongful conduct upon
18 which punitive damages are claimed.” (Compl. ¶ 23.) Plaintiff attributes “the
19 advance knowledge, conscious disregard, authorization, ratification or acts of
20 oppression, fraud, or malice” to “the officers, directors, and/or managing agents of
21 Defendant Ryobi.” (Compl. ¶ 24.)

22 On August 11, 2014, Defendant Home Depot removed the case to federal court
23 pursuant to 28 U.S.C. § 1441(b), and one week later filed the instant Motion moving
24 to strike from Plaintiff’s Complaint paragraphs 22 through 24, inclusive, and Prayer
25 paragraph 7 pursuant to Federal Rule of Civil Procedure 12(f). (ECF Nos. 1,7.)
26 Defendant Home Depot contends that Plaintiff’s punitive damages allegations are
27 “conclusory” and therefore do not meet the minimum pleading requirements under
28 California law. (Mot 3.)

III. LEGAL STANDARD

Federal Rule of Civil Procedure 12(f) provides that “[t]he court may strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter.” Fed. R. Civ. P. 12(f). The decision whether to grant a motion to strike is made at the court’s discretion. *Fantasy, Inc. v. Fogerty*, 984 F.2d 1524, 1528 (9th Cir. 1993), *rev’d on other grounds in Fogerty v. Fantastic, Inc.*, 510 U.S. 517 (1994)). In using its discretion, the court must view the pleadings in the light most favorable to the non-moving party. *In re 2TheMart.com Sec. Litig.*, 114 F. Supp. 2d 955, 965 (C.D. Cal. 2000).

Courts may grant a motion to strike “to avoid the expenditure of time and money that must arise from litigating spurious issues by dispensing with those issues prior to trial” *Whittlestone, Inc. v. Handi-Craft Co.*, 618 F.3d 970, 973 (9th Cir. 2010) (quoting *Fantasy*, 984 F.2d at 1527 (9th Cir. 1993)). Courts may also grant such a motion in order to streamline the resolution of the action and focus the jury’s attention on the real issues in the case. *Fantasy*, 984 F.2d at 1528. Motions to strike are generally disfavored due to the limited role that pleadings play in federal practice, and because they are often used as a delaying tactic. *Cal. Dept. of Toxic Substances Control v. Alco Pacific, Inc.*, 217 F. Supp. 2d 1028, 1033 (C.D. Cal. 2002).

California law governs a Plaintiff’s substantive claim for punitive damages under California Civil Code § 3294; however, the Federal Rules of Civil Procedure govern punitive damages claims procedurally with respect to the adequacy of pleadings. *Clark v. State Farm Mut. Auto. Ins. Co.*, 231 F.R.D. 405, 406 (C.D. Cal. 2005) (citing *Bureerong v. Uvawas*, 922 F.Supp. 1450, 1480 (C.D. Cal. 1996)). Pursuant to Federal Rule of Civil Procedure 8(a), a pleading need only “contain . . . a short and plain statement of the claim showing that the pleader is entitled to relief, and . . . a demand for judgment for the relief the pleader seeks.” Fed. R. Civ. P. 8(a). The Central District of California has previously held that “conclusory allegations of

1 oppression, fraud, or malice compl[y] with federal pleading standards for a claim of
2 punitive damages under California law.” *Clark*, 231 F.R.D. at 405 (C.D. Cal. 2005).

3 IV. DISCUSSION

4 Defendant Home Depot filed the instant Motion to Strike from Plaintiff’s
5 Complaint paragraphs 22 through 24, inclusive, and Prayer paragraph 7 pursuant to
6 Federal Rule of Civil Procedure 12(f). (Mot 1.) Defendant contends that Plaintiff’s
7 punitive damages allegations do not meet California Civil Code requirements because
8 they are “conclusory” and therefore do not meet the minimum pleading requirements
9 under California law. (Mot 3.)

10 The instant Motion is premised on the flawed proposition that Defendant’s
11 attack on Plaintiff’s punitive damages allegations in the Complaint is a substantive
12 issue. (Mot 3.) The determination of an award of punitive damages brought under
13 state tort claims is a substantive issue so California Civil Code § 3294 governs even if
14 the litigation occurs in federal court. *Clark*, 231 F.R.D. at 406 (C.D. Cal. 2005)
15 (citing *Bureerong*, 922 F.Supp. at 1480 (C.D.Cal.1996). However, the adequacy of
16 Plaintiff’s pleading is a *procedural* issue and therefore the Federal Rules of Civil
17 Procedure govern. *Id.*

18 Defendant concedes that Rule 8 “creates liberal pleading requirements for
19 litigants,” yet continues to argue that Plaintiff’s punitive damages allegations do not
20 meet the minimum pleading requirements *under California law*. (Reply 2.)
21 Defendant has not provided the Court with any federal authority that contradicts what
22 this District has already held—that is, “conclusory allegations of oppression, fraud, or
23 malice” are sufficient to survive a motion to strike because they “compl[y] with
24 federal pleading standards for a claim of punitive damages under California law.”
25 *Clark*, 231 F.R.D. at 405 (C.D. Cal. 2005).

26 If Defendant wanted to eliminate Plaintiff’s punitive damages allegations
27 pursuant to California’s heightened pleading standards, Defendant should not have
28 removed the case to federal court.

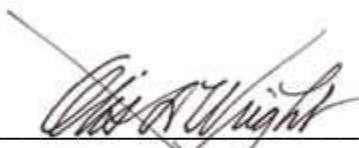
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V. CONCLUSION

Plaintiff’s punitive damages allegations, even if “conclusory” as Defendant contends, are sufficient to survive a motion to strike. For the reasons discussed above, the Court **DENIES** Defendant’s Motion to Dismiss. (ECF No. 7.)

IT IS SO ORDERED.

October 9, 2014



**OTIS D. WRIGHT, II
UNITED STATES DISTRICT JUDGE**