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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

HOIST FITNESS SYSTEMS, INC.,
Plaintiff(s),
v.
TUFFSTUFF FITNESS
INTERNATIONAL, INC.,
Defendant(s).

Case No. EDCV 17-1388-AB (KKx)

**ORDER ACCEPTING FINDINGS
AND RECOMMENDATION OF
UNITED STATES MAGISTRATE
JUDGE**

Pursuant to 28 U.S.C. § 636, the Court has reviewed Plaintiff’s Motion seeking to strike portions of the rebuttal expert reports served by Defendant, the relevant records on file, and the Report and Recommendation of the United States Magistrate Judge. The Court has engaged in de novo review of those portions of the Report to which Plaintiff has objected. The Court overrules the objections and accepts the findings and recommendation of the Magistrate Judge.

IT IS THEREFORE ORDERED that Plaintiff’s Motion is (1) GRANTED IN PART and Defendant (a) shall produce Mr. Smith’s computer models in native file format,¹ and (b) permit Plaintiff to depose Mr. Smith for up to one hour

¹ The Court understands based on Plaintiff’s objections that Mr. Smith’s computer models have already been produced in native file format.

1 regarding the computer models²; and (2) DENIED IN PART to the extent
2 Plaintiff's Motion seeks to strike portions of the expert rebuttal reports of Mr.
3 Smith and Dr. Sternlicht.

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5 Dated: July 15, 2019



6 HONORABLE ANDRÉ BIROTTE, JR.
7 United States District Judge
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25 ² After conferring with Defendant, Plaintiff may request recovery of its costs associated with this
26 deposition, with any determination regarding whether Defendant should be required to cover all
27 costs of the deposition deferred. Plaintiff may similarly request the opportunity to serve a
28 narrowly-tailored supplemental expert report from Mr. Lenz regarding Mr. Smith's computer
models, with any determination regarding whether Plaintiff should be permitted to serve a
supplemental expert report for Mr. Lenz deferred. Any opposed requests for this additional relief
shall not exceed five pages total and shall not include or be met with arguments rearguing the
merits of Plaintiff's Motion to Strike.