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**IN THE UNITED STATES DISTRICT COURT**

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**FOR THE EASTERN DISTRICT OF CALIFORNIA**

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11 ROGER McINTOSH,

CASE NO. CV F 07-1080 LJO GSA

12 Plaintiff,

**ORDER ON PLAINTIFF'S F.R.Civ.P. 37(c)(2)  
MOTION FOR ATTORNEY FEES  
(Doc. 360.)**

13 vs.

14 NORTHERN CALIFORNIA  
15 UNIVERSAL ENTERPRISES,  
INC., et al,16 Defendants.  
17 \_\_\_\_\_/

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19 This Court VACATES plaintiff's F.R.Civ.P. 37(c)(2) motion for attorney fees and the May 13,  
20 2010 hearing on the motion. This Court deems the motion premature given potential post-trial motions  
21 and rulings thereon. Defendants need not respond to the motion at this time. If appropriate, plaintiff  
22 may refile the motion pending the outcome of post-trial motions. If plaintiff refiles the motion, this  
23 Court ADMONISHES plaintiff specifically to: (1) attribute and allocate attorney fees that flow directly  
24 from denial of requests for admission and need to prove denied requests for admission; and (2)  
25 demonstrate calculation of reasonable fees. This Court will not accept a mere splitting of all fees  
26 incurred since denial of the requests of admission, as plaintiff currently proposes. This Court also will  
27 not comb through billings to ascertain reasonableness or need for incurred attorney fees. The clerk is  
28 directed to term doc. 360.

IT IS SO ORDERED.

1 **Dated: April 15, 2010**

/s/ Lawrence J. O'Neill  
UNITED STATES DISTRICT JUDGE

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