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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
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9 CALIFORNIA PIPE RECYCLING,
10 INC.

11 Plaintiff,

12 vs.

13 SOUTHWEST HOLDINGS, INC.,
et al.,

14 Defendants.
15 _____/

CASE NO. CV F 08-0236 LJO SMS

**ORDER ON PLAINTIFF'S DECLARATORY
RELIEF CLAIM**

16 Based on the representations of the parties' counsel, the only unresolved issue before this Court
17 is plaintiff California Pipe Recycling, Inc. ("Cal Pipe") declaratory relief claim that Cal Pipe is a bona
18 fide purchaser for value of the subject conveyor equipment and is not guilty of fraud, misrepresentation
19 or deceit as to third-party creditors of the Briers defendants. This Court's December 10, 2009 order
20 ("December 10 order") required the parties, no later than December 21, 2009, to file and serve papers
21 why Cal Pipe should not be granted declaratory judgment that Cal Pipe is a bona fide purchaser for value
22 of the subject conveyor equipment and is not guilty of fraud, misrepresentation or deceit as to third-party
23 creditors of the Briers defendants.

24 Defendants Joseph Briers, Southwest Pipe Services, Inc. and S.W. Pipe Holdings, Inc.
25 (collectively the "Briers defendants") responded to the December 10 order that they do not dispute that
26 Cal Pipe is the bona fide purchaser of the conveyor equipment and did not commit fraud,
27 misrepresentation or deceit to the parties named in Cal Pipe's interpleader action related to the conveyor
28 equipment and Cal Pipe's purchase of it. The Briers defendants note that they are unable to agree to a

1 broad declaration that Cal Pipe did not commit fraud, misrepresentation or deceit as to all third-party
2 creditors.

3 No other party responded to the December 10 order as to declaratory judgment for Cal Pipe.

4 The Briers defendants' points about the scope of Cal Pipe's requested declaratory relief are well
5 taken. As such, on the basis of good cause, this Court GRANTS Cal Pipe declaratory judgment that Cal
6 Pipe is a bona fide purchaser for value of the subject conveyer equipment and is not guilty of fraud,
7 misrepresentation or deceit as to any current or former party to this action.

8 This order concludes all matters relating to Cal Pipe in this action. The only remaining issue is
9 December 10 order's contemplated sanctions against counsel for the Briers defendants and defendant
10 Robbye Waldron.

11 IT IS SO ORDERED.

12 **Dated: December 22, 2009**

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