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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

URBANO SERQUINA,

Plaintiff,

v.

THE RAYMOND CORPORATION and  
DOES 1 through 20

Defendants.

) 1:08-cv-01741 AWI-GSA  
 )  
 ) SCHEDULING ORDER (Fed. R. Civ. P. 16)  
 )  
 ) Discovery Deadlines:  
 ) Non-Expert: Oct. 30, 2009  
 ) Expert Disclosures :  
 ) Plaintiff : Nov. 13, 2009  
 ) Defendant. : Nov. 27, 2009  
 ) Suppl. Expert Disclosures : Dec. 18, 2009  
 ) Expert Discovery : Jan. 22, 2010  
 )  
 ) Motion Deadlines:  
 ) Non-Dispositive: Feb. 12, 2010  
 ) Dispositive: March 5, 2010  
 )  
 ) Settlement Conference:  
 ) None Scheduled  
 )  
 ) Pre-Trial Conference:  
 ) April 22, 2010 at 8:30 a.m.  
 ) Courtroom 2 (AWI), 8<sup>th</sup> Floor  
 )  
 ) Trial: June 8, 2010 at 8:30 a.m.  
 ) Courtroom 2 (AWI), 8<sup>th</sup> Floor  
 ) Two Weeks  
 ) Jury Trial  
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1 **I. Date of Scheduling Conference**

2 January 13, 2009

3 **II. Appearances of Counsel**

4 Mio Quatraro specially appearing for Edward Chatoian appeared personally on  
5 behalf of Plaintiff Urbano Serquina (“Plaintiff”).

6 Michael Ball appeared personally on behalf of Defendant The Raymond  
7 Corporation (“Defendant”).

8 **III. The Pleadings**

9 **A. Summary of the Pleadings**

10 *1. Plaintiff's Contentions:*

11 Plaintiff alleges that Defendant negligently designed, manufactured, distributed, built,  
12 inspected, and sold a Raymond R40-C400M High Lift, Stand-Up Rider Forklift and/or its  
13 component parts (hereinafter "the Product"), which failed. Plaintiff contends that this failure  
14 included, but was not necessarily limited to, a failure of the hand and foot controls, controlling  
15 movement and stopping of the Product. Plaintiff further alleges that such failure occurred while  
16 an employee of Leprino Foods was operating the Product on September 18, 2006 at Leprino  
17 Foods, located at 351 N. Bellehaven Drive in Lemoore, California. Plaintiff contends that the  
18 failure of the Product, operated by Plaintiff's coworker, resulted in an industrial accident in which  
19 Plaintiff sustained serious and permanent personal injuries, emotional distress, loss of income,  
20 loss of future income and a loss of earning capacity. Plaintiff additionally contends that the  
21 Product contained a defect and that the Defendant breached certain implied and express  
22 warranties, both written and oral, with respect to the Product. Plaintiff further contends that the  
23 defect in the Product and/or in its component parts resulted in a failure of the Product. Plaintiff  
24 lastly contends that the Product's failure was a substantial factor in causing Plaintiff's alleged  
25 harm.

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1 County, California.

2 2. Plaintiff, a Leprino Foods employee, received personal injuries in the industrial  
3 accident.

4 3. Plaintiff is a citizen of the State of California.

5 4. The Raymond Corporation is not a citizen of the State of California.

6 5. The Raymond Corporation is a New York corporation with its principal place of  
7 business in the State of New York.

8 6. The industrial accident at Leprino Foods occurred in the State of California,  
9 County of Kings.

10 7. The amount in controversy in this action exceeds \$75,000, exclusive of interest  
11 and costs.

12 *B. Contested Facts:*

13 At the present time due to the absence of investigation, inspection and discovery in this  
14 case, Defendant lacks sufficient knowledge and information to offer definitive contentions as to  
15 which of the facts asserted by Plaintiff are contested by Defendant. For this reason, other than  
16 those facts stated in the section above, Defendant disputes all facts asserted by Plaintiff, including,  
17 but not necessarily limited to, the following:

18 1. That the cause of the industrial accident on September 18, 2006 at Leprino Foods  
19 was related in any way to a defect in the Product and/or its component parts.

20 2. That the nature and extent of the physical injuries sustained by Plaintiff are as  
21 alleged by Plaintiff.

22 3. That the medical care and treatment provided to Plaintiff was reasonable and  
23 necessary.

24 4. That the medical special damages, claimed by Plaintiff, are as alleged by Plaintiff.

25 5. That the past wage loss, claimed by Plaintiff, is as alleged by Plaintiff.

26 6. That the future wage loss, claimed by Plaintiff, is as alleged by Plaintiff.

1 7. That the loss of future earning capacity, claimed by Plaintiff, is as alleged by  
2 Plaintiff.

3 8. That the Product, operated by Plaintiff's coworker at the time of the industrial  
4 accident, had a defect.

5 9. That any component parts of the Product, operated by Plaintiff's co-worker at the  
6 time of the accident, had a defect.

7 10. That any component part of the Product, operated by Plaintiff's co-worker at the  
8 time of the accident, failed.

9 11. That Plaintiff's co-worker, who was operating the Product at the time of the  
10 accident, was uninformed of known dangers associated with the operation of the Product.

11 12. That Plaintiff was uninformed of known dangers associated with the operation of  
12 the Product.

13 13. That Plaintiff was uninformed of known dangers associated with working in the  
14 vicinity of the Product.

15 14. That an act or omission on the part of The Raymond Corporation was a substantial  
16 factor in causing the harm sustained by Plaintiff.

17 15. That Defendant breached certain implied and express warranties, both written and  
18 oral, with respect to the Product.

19 16. That on September 18, 2006, Plaintiff's coworker was operating the Product in a  
20 manner intended by The Raymond Corporation.

21 17. That on September 18, 2006, Plaintiff's coworker, who was operating the Product  
22 at the time of the industrial accident, was not negligent.

23 18. That on September 18, 2006, Plaintiff was not negligent while working in the  
24 vicinity of the Product operated by his coworker.

25 19. That on September 18, 2006, Plaintiff did not violate California Code of  
26 Regulations §3650(t)(5).

1 20. That the negligence of Plaintiff's co-worker, who was operating the Product at the  
2 time of the accident, was not a substantial factor in causing the harm sustained by Plaintiff.

3 21. That the negligence of Plaintiff's employer, Leprino Foods, was not a substantial  
4 actor in causing the harm sustained by Plaintiff.

5 22. That the contributory negligence of Plaintiff was not a substantial factor in causing  
6 the harm sustained by Plaintiff.

7 23. That Plaintiff's violation of California Code of Regulations §3650(t)(5) on  
8 September 18, 2006 did not cause or contribute to the event that harmed him.

9 24. That any design and/or manufacturing defect existed in the Product's hand and foot  
10 controls, governing the movement and stopping of the Product.

11 25. That the Product's hand and foot controls or the component parts thereof were  
12 defective.

13 26. That the Product's hand and foot controls or the component parts thereof failed.

14 27. That a failure of the Product's hand and foot controls or the component parts  
15 thereof was a substantial factor in causing Plaintiff's harm.

16 **V. Legal Issues**

17 *A. Undisputed Legal Issues:*

18 1. The Federal Rules of Civil Procedure and the Federal Rules of Evidence apply to  
19 this case.

20 2. The venue of this action is proper.

21 3. This Court has original jurisdiction of this action under 28 U.S.C. §1332(a)(1)  
22 because this is a civil action between citizens of different states and the amount in  
23 controversy exceeds the sum of \$75,000, exclusive of interest and costs.

24 4. The substantive law of the State of California applies to this case.

25 *B. Disputed Legal Issues:*

26 At this point in the case, all legal issues raised by the pleadings are disputed by the  
27



1 **251 with respect to discovery disputes or the motion will be denied without prejudice and**  
2 **dropped from calendar.**

3 In scheduling such motions, the Magistrate Judge may grant applications for an order  
4 shortening time pursuant to Local Rule 6-142(d). However, if a party does not obtain an order  
5 shortening time, the notice of motion *must* comply with Local Rule 37-251.

6 Counsel or pro se parties may appear and argue non-dispositive motions by telephone,  
7 providing a written request to so appear is made to the Magistrate Judge's Courtroom Clerk no  
8 later than five (5) court days before the noticed hearing date. In the event that more than one party  
9 requests to appear by telephone then it shall be the obligation of the moving part(ies) to arrange  
10 and originate a conference call to the court.

11 All Dispositive Pre-Trial Motions shall be filed no later than **March 5, 2010** and heard in  
12 Courtroom 2 before the Honorable Anthony W. Ishii. In scheduling such motions, the parties  
13 shall comply with **Local Rules 78-230 and 56-260.**

14 **IX. Pre-Trial Conference Date**

15 The pre-trial conference will be held on **April 22, 2010, at 8:30** a.m. in Courtroom 2  
16 before the Honorable Anthony W. Ishii.

17 The parties are ordered to file a **Joint Pretrial Statement pursuant to Local Rule 16-**  
18 **281(a)(2).** The parties are further directed to submit a digital copy of their pretrial statement in  
19 Word Perfect X3<sup>1</sup> format, directly to Judge Austin's chambers by emailing it to  
20 awiorders@caed.uscourts.gov.

21 The parties' attention is directed to **Rules 16-281 and 16-282 of the Local Rules of**  
22 **Practice for the Eastern District of California,** as to the obligations of counsel in preparing for  
23 the pre-trial conference. The Court will insist upon strict compliance with those rules.

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26 <sup>1</sup> If WordPerfect X3 is not available to the parties then the latest version of WordPerfect  
27 or any other word processing program in general use for IBM compatible personal computers is  
28 acceptable.



1           **X.     Trial Date**

2           The trial will be held on **June 8, 2010**, at **8:30 a.m.** in Courtroom 10 before the Honorable  
3 Anthony W. Ishii, Chief United States District Court Judge.

4           A.     This is a jury trial.

5           B.     Parties' Estimate of Trial Time: Two weeks.

6           The parties' attention is directed to Local Rules of Practice for the Eastern District of  
7 California, Rule 16-285, for preparation of trial briefs.

8           **XI.    Settlement Conference**

9           The parties do not request a settlement conference at this time. If the parties wish to have  
10 a settlement conference in the future they can contact the court via Carrie Esteves, Courtroom  
11 Deputy at 559-499-5962 to arrange a mutually agreeable time. In the event that a settlement  
12 conference is scheduled, unless otherwise permitted in advance by the Court, **the attorneys who**  
13 **will try the case** shall appear at the Settlement Conference **with the parties** and the person or  
14 persons having **full authority** to negotiate and settle the case **on any terms**<sup>2</sup> at the conference.

15                           **CONFIDENTIAL SETTLEMENT CONFERENCE STATEMENT**

16           At least five (5) court days prior to the Settlement Conference the parties shall submit,  
17 directly to Magistrate Judge Austin's chambers by email to gsaorders@caed.uscourts.gov, a  
18 Confidential Settlement Conference Statement. The statement **should not be filed** with the Clerk  
19 of the Court **nor served on any other party**, although the parties may file a Notice of Lodging of  
20 Settlement Conference Statement. Each statement shall be clearly marked "confidential" with the  
21 date and time of the Settlement Conference indicated prominently thereon. The parties are urged  
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23                           <sup>2</sup> Insurance carriers, business organizations, and governmental bodies or agencies whose  
24 settlement agreements are subject to approval by legislative bodies, executive committees, boards  
25 of directors or the like shall be represented by a person or persons who occupy high executive  
26 positions in the party organization and who will be directly involved in the process of approval of  
27 any settlement offers or agreements. To the extent possible, the representative shall have the  
28 authority, if he or she deems it appropriate, to settle the action on terms consistent with the  
opposing party's most recent demand.

1 to request the return of their statements if settlement is not achieved and if such a request is not  
2 made the Court will dispose of the statement.

3 The Confidential Settlement Conference Statement shall include the following:

4 A. A brief statement of the facts of the case.

5 B. A brief statement of the claims and defenses, i.e., statutory or other grounds  
6 upon which the claims are founded; a forthright evaluation of the parties'  
7 likelihood of prevailing on the claims and defenses; and a description of the major  
8 issues in dispute.

9 C. A summary of the proceedings to date.

10 D. An estimate of the cost and time to be expended for further discovery, pretrial  
11 and trial.

12 E. The relief sought.

13 F. The party's position on settlement, including present demands and offers and a  
14 history of past settlement discussions, offers and demands.

15 Should the parties desire an additional settlement conference, they will jointly request one  
16 of the court, and one will be arranged. In making such request, the parties are directed to notify  
17 the court as to whether or not they desire the undersigned to conduct the settlement conference or  
18 to arrange for one before another judicial officer.

19 **XII. Request for Bifurcation, Appointment of Special Master, or other Techniques**  
20 **to Shorten Trial**

21 The parties have not requested bifurcation.

22 **XIII. Related Matters Pending**

23 The parties have not identified any related matters.

24 **XIV. Compliance with Federal Procedure**

25 The parties are expected to familiarize themselves with the Federal Rules of Civil  
26 Procedure and the Local Rules of Practice of the Eastern District of California, and to keep abreast  
27

1 of any amendments thereto. The Court must insist upon compliance with these Rules if it is to  
2 efficiently handle its increasing case load and sanctions will be imposed for failure to follow the  
3 Rules as provided in both the Federal Rules of Civil Procedure and the Local Rules of Practice for  
4 the Eastern District of California.

5 **XV. Effect of this Order**

6 The foregoing order represents the best estimate of the Court and the parties as to the  
7 agenda most suitable to dispose of this case. The trial date reserved is specifically reserved for  
8 this case. If the parties determine at any time that the schedule outlined in this order cannot be  
9 met, counsel are ordered to notify the Court immediately of that fact so that adjustments may be  
10 made, either by stipulation or by subsequent status conference.

11 Stipulations extending the deadlines contained herein will not be considered unless they  
12 are accompanied by affidavits or declarations, and where appropriate attached exhibits, which  
13 establish good cause for granting the relief requested.

14 Failure to comply with this order may result in the imposition of sanctions.

15  
16  
17 IT IS SO ORDERED.

18 Dated: January 20, 2009

/s/ Gary S. Austin  
UNITED STATES MAGISTRATE JUDGE