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**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA**

JAJEEVAN K. DHALIWAL, and MOHINDER S. GILL,

Plaintiffs,

v.

KS CHANDI & SONS, INC., et al.,

Defendants.

1:13-cv-00484-LJO-SKO

**ORDER ON MOTIONS IN LIMINE**  
(Docs. 121, 122, 123)

**(Jury Trial 10-15-2014)**

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**INTRODUCTION**

Plaintiffs Jajeevan K. Dhaliwal and Mohinder S. Gill (“Plaintiffs”) bring this action against Defendants KS Chandi & Sons, Inc., Chandi Brothers, LLC, Nirmal Singh (“Singh”), Nachhattar S. Chandi, Susana E. Chandi, and Valley Petroleum In.c (collectively, “Defendants”) for claims arising out of investments in Stanislaus County gas stations/convenience stores. Pending before the Court are Plaintiffs’ and Defendants’ motions in limine. Having reviewed the parties’ submissions, the Court rules on the motions in limine as follows.

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**BACKGROUND**

Singh is an ARCO AM PM (“AM PM”) franchisee and developer, who, together with Nachhattar S. Chandi and Susana E. Chandi (“Chandis”), sought investors to purchase AM PM gas station/convenience stores. Singh and the Chandis own more than ten AM PMs in California. Plaintiffs, husband and wife, claim to have invested in AM PMs at issue in this action. At all relevant times, Singh was the chief financial officer (“CFO”) and a shareholder of Chandi & Sons, Inc., and of Chandi Brothers, LLC. At all relevant times, Nachhattar S. Chandi and Susana E. Chandi were

1 President and Secretary, respectively, of Chandi & Sons, Inc., and of Chandi Brothers, LLC.

2 Following motions to dismiss by Defendants, two of Plaintiffs' claims in this matter remain  
3 viable: Plaintiffs' first cause of action for breach of contract against Chandi & Sons, Inc., and  
4 Plaintiffs' tenth cause of action for involuntary dissolution against Chandi & Sons, Inc., and Chandi  
5 Brothers, LLC. (Doc. 25).

6 On March 5, 2014, this Court denied Defendant's motion for summary adjudication as to  
7 Plaintiff's tenth cause of action. (Doc. 51).

8 On September 15, 2014, Defendants filed motions in limine. (Doc. 121). Plaintiffs filed  
9 oppositions on September 22, 2014. (Doc. 129).

10 On September 15, 2014, Plaintiffs filed motions in limine. (Docs. 122, 123). Defendants filed  
11 oppositions on September 22, 2014. (Docs. 131, 132).

12 This case is scheduled for trial on October 15, 2014.

### 13 **LEGAL STANDARD**

14 A party may use a motion in limine to exclude inadmissible or prejudicial evidence before it  
15 is actually introduced at trial. *See, Luce v. United States*, 469 U.S. 38, 40 n. 2 (1984). "[A] motion in  
16 limine is an important tool available to the trial judge to ensure the expeditious and evenhanded  
17 management of the trial proceedings." *Jonasson v. Lutheran Child and Family Services*, 115 F.3d  
18 436,440 (7th Cir. 1997). A motion in limine allows the parties to resolve evidentiary disputes before  
19 trial and avoids potentially prejudicial evidence being presented in front of the jury, thereby relieving  
20 the trial judge from the formidable task of neutralizing the taint of prejudicial evidence. *Brodit v.*  
21 *Cambra*, 350 F.3d 985, 1004–05 (9th Cir. 2003).

22 Motions in limine that exclude broad categories of evidence are disfavored, and such issues  
23 are better dealt with during trial as the admissibility of evidence arises. *Sperberg v. Goodyear Tire &*  
24 *Rubber, Co.*, 519 F.2d 708, 712 (6th Cir. 1975). Additionally, some evidentiary issues are not  
25 accurately and efficiently evaluated by the trial judge in a motion in limine, and it is necessary to defer  
26 ruling until during trial when the trial judge can better estimate the impact of the evidence on the jury.  
27 *Jonasson*, 115 F.3d at 440.

1 **DEFENDANTS' MOTIONS IN LIMINE**

2 **1. Exclude non-party witnesses from courtroom during trial**

3 In their first motion in limine, Defendants request exclusion of all non-party witnesses from the  
4 courtroom except during trial to testify pursuant to Fed. R. Civ. P. 615. Defendants expressed concern  
5 in particular as to potential witnesses Harpreet Dhaliwal and Amanda Bui because their “testimony  
6 will be influenced by what other witnesses testify to during the trial.” (Doc. 121). Plaintiffs argue  
7 Defendants’ MIL should be denied because witness Amanda Bui is not a qualified witness and  
8 therefore cannot be excluded from courtroom.

9 Defendants’ motion is GRANTED. All non-party potential witnesses are excluded from the  
10 courtroom during trial. A potential witness is a person that an officer of the court represents, in good  
11 faith, may testify.

12 **2. Exclude testimony and evidence of Plaintiff’s experts**

13 Defendants seek to exclude testimony and evidence of Plaintiffs’ experts Sheila Lowe and Phil  
14 Pisano. Defendants argue that Lowe was not identified as a witness until August 1, 2014, after the  
15 parties’ expert disclosures were due on April 18, 2014. Defendants further argue that Pisano was  
16 timely identified as an expert but Plaintiffs did not provide any report from either expert.

17 Plaintiffs state that they have removed Pisano as an expert witness. Therefore, Defendants’  
18 motion as to Pisano is DENIED as moot.

19 Plaintiffs further argue Lowe is an impeachment witness, so no disclosure is required.  
20 Further, if disclosure is required, Plaintiffs argue they complied with disclosure requirements for an  
21 impeachment expert witness.

22 Lowe must qualify as a legally defined “impeachment witness” or she will be excluded. The  
23 Court ORDERS Plaintiffs to submit a declaration by no later than October 6, 2014 indicating why she  
24 so qualifies.

25 **3. Exclude evidence not timely disclosed by Plaintiffs**

26 Defendants seek to exclude evidence contained in Plaintiff’s supplemental disclosures that  
27 were filed after the close of discovery in this case.

1 Plaintiffs argue that they timely disclosed all the evidence and documents as the supplemental  
2 disclosure are simply the same documents as previously disclosed, just with BATES stamped numbers.

3 Plaintiffs further argue that the specific evidence Defendants seek to exclude is impeachment  
4 evidence of “Mr. Singh committing perjury in this Court” which Plaintiffs are not required to disclose;

5 The parties are ORDERED to meet and confer as to whether Plaintiffs’ documents and  
6 evidence were timely disclosed without BATES stamps. If Plaintiffs’ documents and evidence were  
7 not timely disclosed without BATES stamps, they will be excluded.

8 **4. Exclude testimony of witnesses not disclosed during discovery**

9 Defendants request that the Court exclude the testimony of a number of individuals Plaintiffs  
10 listed on their trial witness list, filed August 25, 2014, that were not disclosed in Plaintiffs’ initial  
11 disclosures while discovery was open. Plaintiffs argue the specific witnesses Defendants seek to  
12 exclude are impeachment witnesses; therefore, no disclosure is required.

13 These witnesses must qualify as a legally defined “impeachment witness” or they will be  
14 excluded. The Court ORDERS Plaintiffs to submit a declaration by no later than October 6, 2014  
15 indicating why each witness at issue so qualifies.

16 **5. Bifurcate trial on Plaintiffs’ claims (FRCP 42(b))**

17 Defendants request an order to bifurcate the trial on Plaintiffs’ two remaining claims, breach of  
18 contract and involuntary dissolution. Defendants argue bifurcation is necessary because Plaintiffs have  
19 no claim on the second claim unless and until they have succeeded on the first. Defendants are also  
20 concerned that evidence as to the second claim will be prejudicial as to Defendant Singh.

21 Plaintiffs stipulate to bifurcation of the trial on their two claims.

22 The parties are ORDERED to submit a trial estimate as to the breach of contract claim and as to  
23 the involuntary dissolution claim as bifurcated. The Court will rule on bifurcation following the  
24 parties’ submission of the trial estimate.

25 **6. Exclude evidence or comment regarding settlement communications and “witness  
26 tampering”**

27 Defendants request an order preventing all counsel and witnesses from offering any evidence or  
28 argument regarding settlement communications between Defendants and Plaintiffs or Defendants and

1 other litigants and allegations that Defendant Singh engaged in “witness tampering” by making  
2 payment or settlement offers to litigants in other cases. Plaintiffs argue that Defendants’ motion is  
3 vague, and that Defendant Singh’s alleged offers to pay Plaintiffs and third parties are relevant and  
4 admissible.

5 Defendants’ motion is GRANTED as to evidence of settlement communications between  
6 Defendants and Plaintiffs or Defendants and other litigants. Defendants’ motion is DENIED as to  
7 evidence of Singh offering payment to litigants in other cases as “witness tampering” because it is  
8 relevant on issues of potential witness bias.

9 **7. Exclude evidence of other lawsuits against Defendants**

10 Defendants seek exclusion of evidence as to other lawsuits against Defendants. Plaintiffs  
11 appear to agree to exclude evidence of other lawsuits against Defendants.

12 Defendants’ motion is GRANTED on the grounds of relevancy and Fed. R. Evid. 403.

13 **8. Exclude arguments and evidence as to character**

14 Defendants seek to exclude any evidence concerning any party or witness’s general reputation  
15 for truthfulness or honesty or lack thereof because such evidence will be more prejudicial than  
16 probative. Plaintiffs argue Defendants’ motion should be denied due to vagueness and that evidence as  
17 to witnesses’ truthfulness and credibility is admissible.

18 Defendants' motion is DENIED.

19 **9. Exclude evidence that Plaintiffs are shareholders of Defendant KS Chandi, Inc. and/or**  
20 **members of Defendant Chandi Brothers, LLC**

21 Defendants argue Plaintiffs pled in their first amended complaint that they are neither  
22 shareholders nor members of either KS Chandi, Inc. or Chandi Brothers, LLC. Plaintiffs argue  
23 Defendants’ motion should be denied because of this Court’s finding in its order denying Defendants’  
24 motion for summary judgment in which Defendants made the same argument that the pleadings in  
25 Plaintiffs’ first amended complaint do not constitute a judicial admission that Plaintiffs are neither  
26 shareholders nor members of either Defendant corporation. (Doc. 51).

27 “A judicial admission must be deliberate, clear, and unambiguous.” *Grandoe Corp. v. Gander*  
28 *Mountain Co.*, — F.3d —, —, 2014 WL 3765572, at \*5 (8th Cir. Aug. 1, 2014). *See also*,

1 *Truckstop.Net, L.L.C. v. Sprint Commc'ns Co., L.P.*, 537 F. Supp. 2d 1126, 1135 (D. Idaho 2008) (“To  
2 qualify as a judicial admission, the admission must be ‘deliberate, clear, and unequivocal.’”) (quoting  
3 *Heritage Bank v. Redcom Laboratories, Inc.*, 250 F.3d 319, 329 (5th Cir. 2001)). The pleadings in  
4 Plaintiff’s first amended complaint do not show a deliberate, clear, unambiguous, or unequivocal  
5 admission that Plaintiffs are neither shareholders nor members of either KS Chandi, Inc. or Chandi  
6 Brothers, LLC. *Id.*; (Doc. 14). Therefore, Plaintiffs did not make a judicial admission as to the same.  
7 Defendants’ motion is DENIED.

8 **10. Exclude evidence regarding damages calculation**

9 Defendants move to bar Plaintiffs from presenting any computation of damages at trial because  
10 Plaintiffs failed to provide a computation of any category of damages in either their initial disclosures  
11 and during discovery.

12 Plaintiffs argue they properly disclosed their damages calculations, totaling \$6,402,086.00 in  
13 “damages caused by Defendants” that is “not including the original \$1,350,000 note,” in their  
14 complaint. (Doc. 129).

15 Defendants’ motion is DENIED, but Plaintiffs may rely only on the amounts and damages  
16 calculations disclosed in their complaint.

17 **PLAINTIFFS’ MOTIONS IN LIMINE**

18 **1. Exclude Defendants’ documents and witnesses as evidentiary sanction for Defendants’**  
19 **noncompliance with Court order and Fed. R. Civ. P. 26**

20 Plaintiffs argue Defendants failed to comply with this Court’s June 30, 2014 order to produce  
21 documents identified in supplemental disclosures and that such conduct warrants evidentiary sanctions.  
22 Defendants argue they fully and timely complied with Court’s order to supplement initial disclosures  
23 and that a technology malfunction delayed Plaintiffs’ ability to access the supplemental disclosures  
24 provided by Defendants.

25 Plaintiff’s motion is DENIED.

26 **2. Exclude testimony of witnesses who lack personal knowledge**

1 Plaintiffs argue five of Defendants' witnesses were not present during 2006 through mid-2011  
2 and therefore have no personal knowledge as whether Plaintiffs purchased 50% of Defendants' two  
3 entities. Defendants argue those witnesses do have personal knowledge.

4 Plaintiffs' motion is DENIED without prejudice, subject to a timely objection after the alleged  
5 foundation has been laid.

### 6 **3. Exclude evidence not related to this case**

7 Plaintiffs seek to exclude evidence of and documents relating to lawsuits by third parties  
8 against Defendants, third parties' agreements and dealings with Defendant Singh and an unrelated civil  
9 action against Plaintiffs' counsel. Defendants agree to exclude evidence relating to Singh's transaction  
10 with Tennessee Commerce Bank as to properties not related to his case and to the civil action against  
11 Plaintiffs' counsel. Defendants argue other evidence Plaintiffs seek to exclude is relevant because it  
12 shows the close personal and business relationship between Plaintiffs and a non-party witness as well  
13 as possible impeachment of anticipated testimony by some witnesses.

14 Plaintiffs' motion is GRANTED as to lawsuits by third parties against Defendants, evidence  
15 relating to Singh's transaction with Tennessee Commerce Bank regarding properties not related to his  
16 case, and the civil action against Plaintiffs' counsel. Plaintiff's motion is DENIED as to evidence that  
17 shows a close personal and business relationship between Plaintiffs and a non-party witness and as to  
18 impeachment evidence because such evidence may involve witness bias issues.

### 19 **4. Exclude improper character evidence**

20 Plaintiffs seek to preclude Defendants from introducing character evidence not related to  
21 truthfulness as to witnesses and "speculative character evidence lacking a 'good faith' basis" based on  
22 certain events involving Plaintiffs' witnesses that Plaintiffs anticipate Defendants will bring up.  
23 Specifically, Plaintiffs seek to preclude Defendants from introducing evidence as to the following  
24 events involving two of Plaintiffs' potential witnesses: 1) alleged "armed takeover" of the Hatch AM  
25 PM by Plaintiff's potential non-party witnesses Harpreet Dhaliwal and Amanda Bui; 2) alleged  
26 fabrication of and alteration of documents relating to Plaintiff's ownership of Defendant companies by  
27 Harpreet Dhaliwal and Bui; 3) alleged improper receipt of money by Harpreet Dhaliwal and Bui in  
28 unrelated transactions with Singh, Defendants, and other third parties; and 4) Harpreet Dhaliwal and

1 Bui allegedly using their personal relationship with each other to damage Singh. Plaintiffs argue  
2 evidence as to the above alleged events is not relevant, and that, even if such evidence is relevant, it is  
3 more prejudicial than probative. Defendants argue the evidence is relevant as to the credibility of two  
4 of Plaintiffs' witnesses.

5 Plaintiffs' motion is GRANTED as to character evidence not related to truthfulness as to  
6 witnesses. Plaintiffs' motion is DENIED without prejudice as to evidence regarding the alleged events  
7 involving Harpreet Dhaliwal and Amanda Bui. The arguments and evidence before the Court is  
8 inconclusive as to whether the evidence Defendants may seek to introduce is relevant or prejudicial.  
9 Plaintiffs may renew this motion after Defendants clarify what evidence they plan to introduce in  
10 relation to the above alleged events and for what purpose. This may be done at 8:15 AM on the  
11 morning of trial. Counsel must advise the Court one week prior to trial if this is to happen.

#### 12 **CONCLUSION AND ORDER**

13 For the reasons discussed above, the Court

- 14 1. GRANTS Defendants' first motion in limine, Defendants' sixth motion in limine as to  
15 settlement communications between the parties and between Defendants and other litigants,  
16 and Defendants' seventh motion in limine;
- 17 2. DENIES Defendants' second motion in limine as to expert witness Phil Pisano, Defendants'  
18 sixth motion in limine as to evidence of Singh offering payment to litigants in other cases as  
19 "witness tampering," Defendants' eighth motion in limine, Defendants' ninth motion in limine,  
20 and Defendants' tenth motion in limine;
- 21 3. GRANTS Plaintiffs' third motion in limine as to lawsuits by third parties against Defendants,  
22 evidence relating to Singh's transaction with Tennessee Commerce Bank regarding properties  
23 not related to his case, and the civil action against Plaintiffs' counsel, and Plaintiffs' fourth  
24 motion in limine as to character evidence not related to truthfulness as to witnesses;
- 25 4. DENIES Plaintiffs' first motion in limine, and Plaintiffs' third motion in limine as to evidence  
26 that shows a close personal and business relationship between Plaintiffs and a non-party  
27 witness and as to impeachment evidence;
- 28 5. DENIES without prejudice Plaintiffs' second motion in limine and Plaintiffs' fourth motion in

1 limine as to alleged events involving Harpreet Dhaliwal and Amanda Bui;

2 6. ORDERS the parties to file submissions as to Defendants' second motion in limine,  
3 Defendants' third motion in limine, and Defendants' fourth motion in limine according to the  
4 instructions contained herein; and

5 7. ORDERS the parties to file submissions as to bifurcation of the trial on Plaintiffs' two claims  
6 as instructed herein.

7  
8 IT IS SO ORDERED.

9 Dated: September 29, 2014

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