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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

G.P.P., INC. d/b/a GUARDIAN
INNOVATIVE SOLUTIONS,

Plaintiff,

v.

GUARDIAN PROTECTION PRODUCTS,
INC., RPM WOOD FINISHES GROUP,
INC.,

Defendants.

Case No. 1:15-cv-00321-SKO

**ORDER RE: SCOPE OF TRIAL,
SETTING BRIEFING SCHEDULE, AND
RESETTING PRETRIAL CONFERENCE**

GUARDIAN PROTECTION PRODUCTS,
INC.,

Counterclaimant,

v.

G.P.P., INC. d/b/a GUARDIAN
INNOVATIVE SOLUTIONS,

Counter-defendant.

On January 13, 2021, the Court held a telephonic conference to discuss resetting the
Pretrial Conference, which had been vacated in light of the coronavirus (COVID-19) outbreak and

1 the resultant courthouse restrictions, *see, e.g.*, General Orders Nos. 612-618, as well as the
2 uncertainty surrounding courthouse availability in the future. (*See* Doc. 400.) Colleen Bal, Esq.
3 John Flynn, Esq., Dylan Liddiard, Esq., and Jason Mollick, Esq., appeared on behalf of
4 Plaintiff/Counter-defendant G.P.P., Inc. d/b/a Guardian Innovative Solutions (“GIS”). Calvin
5 Davis, Esq., and Aaron Rudin, Esq., appeared on behalf of Defendant/Counterclaimant Guardian
6 Protection Products, Inc. (“Guardian”). Following the conference, the Court hereby ORDERS as
7 follows:

8 1. The Pretrial Conference is SET for **June 30, 2021, at 2:30 P.M.** before the Honorable
9 Sheila K. Oberto, United States Magistrate Judge. The parties are ordered to file an Amended
10 Joint Pretrial Statement pursuant to Local Rule 281(a)(2). The parties are further directed to
11 submit a digital copy of their Pretrial Statement in Word format, directly to Magistrate Judge
12 Oberto’s chambers by email at SKOorders@caed.uscourts.gov. Counsel’s attention is directed to
13 Rules 281 and 282 of the Local Rules for the Eastern District of California, as to the obligations of
14 counsel in preparing for the Pretrial Conference. The Court will insist upon strict compliance with
15 those rules.

16 2. As indicated in the Joint Pretrial Statement, the parties continue to dispute the effect of the
17 Ninth Circuit’s Memorandum opinion on the claims to be tried in this case and defenses to those
18 claims. (*See* Doc. 399 at 25, 27, 31–34, 41.) As such, the Court holds as follows:

19 a. The Ninth Circuit found that the “undisputed facts of the parties’ course of
20 performance” is that the Florida, Alabama, and Tennessee Agreements “require that
21 GIS meet only aggregate purchase quotas.” (Doc. 344 at 3.) This is the law of the
22 case as to those Agreements, *see Odima v. Westin Tucson Hotel*, 53 F.3d 1484,
23 1497 (9th Cir. 1995), and will be given to the jury;

24 b. The Ninth Circuit’s remand of GIS’s Third Cause of Action alleging Guardian’s
25 breach of the “Bob’s Discount Furniture Agreement” (*see* Doc. 367 ¶¶ 69–73) is
26 limited to the territories covered by the Florida, Mid-Atlantic, and Cook County
27 Agreements. (*See* Doc. 344 at 4–5; *see also* Docs. 378 & 388.); and
28

1 c. The Ninth Circuit made no determination as to the issue of whether the Bob's
2 Discount Furniture Agreement was supported by consideration in the territories
3 covered by the Florida, Mid-Atlantic, and Cook County Agreements; instead, it
4 remanded that issue for trial. (See Doc. 344 at 5.)

5 3. As indicated in the Joint Pretrial Statement, the parties dispute the effect of the jury verdict
6 rendered on June 29, 2017, (Doc. 286) on the claims to be tried in this case and defenses to those
7 claims. (See Doc. 399 at 5–7, 28–30, 34–37, 40–41.) Accordingly, by no later than **February 17,**
8 **2021**, GIS and Guardian shall each file opening briefs on the effect, if any, of the jury verdict on
9 GIS's claims and Guardian's defenses. Responsive briefs shall be filed no later than **March 17,**
10 **2021**, and the parties shall file their reply briefs no later than **March 31, 2021**. The Court shall set
11 a hearing, if it deems appropriate, once the briefing is completed. Otherwise, the briefing will be
12 deemed submitted as of that date.

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14 IT IS SO ORDERED.

15 Dated: January 14, 2021

1/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE

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