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

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

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

Plaintiff,

**ORDER SETTING BRIEFING  
SCHEDULE AND RESETTING  
PRETRIAL CONFERENCE AND TRIAL**

v.

(Doc. 420)

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

Defendants.

\_\_\_\_\_ /

On June 21, 2021, the Court held a telephonic conference to discuss the parties’ request for a resumption of briefing regarding the effect of the June 2017 jury verdict on the claims to be tried in this case and defenses to those claims. (*See* Doc. 420.) Colleen Bal, Esq. John Flynn, Esq., Dylan Liddiard, Esq., and Brian Levy, Esq., appeared on behalf of Plaintiff G.P.P., Inc. d/b/a Guardian Innovative Solutions (“GIS”). Calvin Davis, Esq., and Aaron Rudin, Esq., appeared on behalf of Defendant Guardian Protection Products, Inc. (“Guardian”). Following the conference, the Court hereby ORDERS as follows:

1. The Pretrial Conference is SET for **October 13, 2021, at 2:30 P.M.** before the Honorable Sheila K. Oberto, United States Magistrate Judge. The parties are ordered to file an Amended Joint Pretrial Statement pursuant to Local Rule 281(a)(2). The parties are further directed to submit a digital copy of their Pretrial Statement in Word format, directly to Magistrate Judge Oberto’s

1 chambers by email at [SKOorders@caed.uscourts.gov](mailto:SKOorders@caed.uscourts.gov). Counsel’s attention is directed to Rules 281  
2 and 282 of the Local Rules for the Eastern District of California, as to the obligations of counsel in  
3 preparing for the Pretrial Conference. The Court will insist upon strict compliance with those rules.  
4 In addition to the matters set forth in the Local Rules, the Joint Pretrial Statement shall include a  
5 Joint Statement of the case to be used by the Court to explain the nature of the case to the jury during  
6 voir dire.

7 2. Jury trial is SET for **December 7, 2021, at 8:30 a.m.** in Courtroom 7 before the Honorable  
8 Sheila K. Oberto, United States Magistrate Judge. Counsel’s attention is directed to Local Rule 285  
9 for the Eastern District of California.<sup>1</sup>

10 3. As recently confirmed in its May 21, 2021 Order denying immediate appeal under 28 U.S.C.  
11 § 1292(b), the Ninth Circuit, in its Memorandum opinion, “interpreted the [Florida, Alabama, and  
12 Tennessee Agreements] and the course of performance evidence to require unambiguously that GIS  
13 meet only aggregate, not per-territory, purchase quotas.” (Doc. 419.) This is the law of the case as  
14 to those Agreements, *see Odima v. Westin Tucson Hotel*, 53 F.3d 1484, 1497 (9th Cir. 1995), and  
15 will be given to the jury. Whether this law of the case should also govern the interpretation of the  
16 Pennsylvania, Mid-Atlantic, Cook County, Indiana, and Midwest Agreements is an open question,  
17 and one not yet addressed by the parties. In addition, the parties dispute the effect of the June 2017  
18 jury verdict (Doc. 286) on the claims to be tried in this case and defenses to those claims. (*See* Doc.  
19 399 at 5–7, 28–30, 34–37, 40–41.) Accordingly, by no later than **July 9, 2021**, GIS and Guardian  
20 shall each file opening briefs on (1) whether the law of case as confirmed by the Ninth Circuit with  
21 respect to the Florida, Alabama, and Tennessee Agreements, *i.e.*, that they “require unambiguously  
22 that GIS meet only aggregate, not per-territory, purchase quotas,” should also govern the  
23 interpretation of the Pennsylvania, Mid-Atlantic, Cook County, Indiana, and Midwest Agreements;  
24 and (2) the effect, if any, of the jury verdict on GIS’s claims and Guardian’s defenses. Responsive  
25 briefs shall be filed no later than **July 23, 2021**, and the parties shall file their reply briefs no later  
26 than **July 30, 2021**. The Court may set a hearing, if it deems appropriate, once the briefing is  
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28 <sup>1</sup> Due to the press of business, the Court was unable to accommodate the November 8–12 trial dates proposed by the parties.

1 completed. Otherwise, the briefing will be deemed submitted as of that date, and the Court will  
2 issue its determination in its Pretrial Order.

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4 IT IS SO ORDERED.

5 Dated: June 24, 2021

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

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