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

PUONGPUN SANANIKONE,

Plaintiff,

No. CIV-S-07-1434 KJM KJN

vs.

UNITED STATES OF AMERICA,

Defendant,

vs.

PAUL TA, *et al.*,

Counterclaim Defendants.

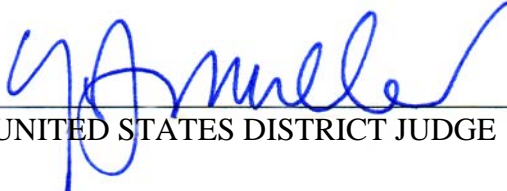
ORDER

_____ /
This order confirms a bench order issued on the first day of trial, October 18, 2011.

Sananikone has submitted a general verdict with special interrogatories under Fed. R. Civ. P. 49(b). Whether to give such a verdict is within the trial court’s discretion. *Cancellier v. Federated Department Stores*, 672 F.2d 1312 (9th Cir. 1982). A general verdict with special interrogatories is returned “upon one or more issues of fact the decision of which is necessary to a verdict.” *Zhang v. American Gem Seafoods, Inc.*, 339 F.3d 1020, 1031 (9th Cir. 2003).

1 Sananikone has asked the jury to answer interrogatories corresponding to factors
2 developed in the case law for determining whether a person is “responsible” within the meaning
3 of 26 U.S.C. section 6672. The Ninth Circuit has recognized several factors “relevant to whether
4 an individual” is a responsible party. *United States v. Jones*, 33 F.3d 1137, 1140 (9th Cir. 1994),
5 but the ultimate issue of fact necessary to the verdict is whether the party is responsible.
6 Plaintiff has not cited to authority requiring that the wide range of factors set forth in his
7 proposed verdict form be identified by the jury in returning the verdict. Given the range of
8 factors relevant to the determination, the court declines to list any combination of these on the
9 verdict form.

10 DATED: October 18, 2011.

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13 _____
14 UNITED STATES DISTRICT JUDGE
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