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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

BOLAND, INC., a California
corporation dba S&S SUPPLIES,

NO. CIV. S-08-2201 LKK/JFM

Plaintiff,

v.

O R D E R

ROLF C. HAGEN (USA) CORP.,
and DOES 1 through 50,
inclusive,

Defendants.

_____ /

On April 15, 2010, this court issued a tentative pretrial order in the above-captioned matter. (Dkt. No. 65). This tentative order inadvertently omitted references to plaintiff's witness and exhibit lists, and the court corrected these omissions with an amended tentative order filed on April 16, 2010 (Dkt. No. 66). Defendant has filed timely objections to that order. The time for filing a response to these objections has expired, and plaintiff has not filed a response. The court discusses each of these objections in turn. The court further modifies various time periods in the order to accord with the changes to Fed. R. Civ. P.

1 6(a) effected December 1, 2009.

2 First, defendant seeks to expand upon the "Non-Discovery
3 Motions" section, to include substantially more detail from the
4 court's order on summary judgment filed Feb. 4, 2010. Defendant
5 has accurately quoted that order, and the quoted passages will
6 narrow the issues for trial. That reaffirmed, the court sees no
7 reason to further duplicate these holdings in the pretrial order.

8 Defendant next abandons the affirmative defenses of "waiver
9 of breach" and "laches," enumerated as points of law (f) and (j)
10 in the amended tentative order. These defenses are omitted, and
11 the remaining issues are renumbered accordingly. Per defendant's
12 request, the court adds the defense of "speculative damages."

13 Defendant then seeks to strike one witness and to amend its
14 exhibit lists. These requests are granted.

15 Because the trial will be to the court, the court deletes the
16 first section XVII(B) and section XVII(C) from the amended
17 tentative pretrial order.

18 In the Feb. 4, 2010 Order, the court held that plaintiff is
19 not entitled to punitive damages. Accordingly, the court strikes
20 the amended tentative pretrial order's statement that punitive
21 damages will be tried separately (section XX).

22 In accordance with the recent amendments to Fed. R. Civ. P.
23 6(a), parties shall file their proposed findings of fact and
24 conclusions of law no later than **fourteen (14)** days prior to the
25 first date of trial. The amended tentative order included
26 conflicting statements on this issue. Section XVII(B) is amended


1 to reflect the fourteen day period, and the court deletes the
2 second paragraph of section XXIV. (Am. Tent. Pretrial Order at
3 31:15-17). Similarly, the parties shall exchange copies of their
4 exhibits not later than fourteen (14) days from the date of the
5 final pretrial order, and each party is then granted fourteen (14)
6 days to serve on opposing counsel any objections to said exhibits.

7 The court will separately issue a final pretrial order
8 reflecting these changes.

9 IT IS SO ORDERED.

10 DATED: May 10, 2010.

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LAWRENCE K. KARLTON
SENIOR JUDGE
UNITED STATES DISTRICT COURT