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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

PARADISE NORTHWEST INC.,

Plaintiff,

v.

SATVINDER PALSINGH RANDHAWA,  
LORNA MARIE RANDHAWA dba  
GREAT EASTERN EXPORT &  
TRADING COMPANY,

Defendants and Third-  
Party Plaintiffs,

v.

AIR DIFFUSION SYSTEMS, A JOHN  
HINDE COMPANY,

Third-Party  
Defendant.

No. 2:09-cv-02027-MCE-DAD

**MEMORANDUM AND ORDER**

Through this Motion, Defendants and Third-Party Plaintiffs Satvinder Palsingh  
Randhawa and Lorna Marie Randhawa dba Great Eastern Export and Trading Company  
("Defendants" unless otherwise indicated) move for judgment as a matter of law

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1 (“JMOL”) under Federal Rule of Civil Procedure 50(b)<sup>1</sup> as to certain claims asserted  
2 against them by Plaintiff Pacific Northwest, Inc. (“Plaintiff”). Alternatively, Defendants  
3 request that this Court order a new trial or remittitur in accordance with Rule 59(a) on  
4 grounds that the verdict reached by the jury in this matter was against the weight of the  
5 evidence and resulted in a miscarriage of justice. As set forth below, Defendant’s Motion  
6 is denied.<sup>2</sup>

## 8 BACKGROUND

9  
10 This lawsuit arises from goods and services provided by Plaintiff to aerate Lake  
11 Nainital, a small, shallow body of water situated in the Himalayan foothills near  
12 Utterakhand, India. Once Plaintiff had the equipment shipped to India and installed in  
13 late 2007, Plaintiff claims that Defendants refused to pay the balance due for the  
14 equipment, and further refused to pay for any of the labor and travel costs after making  
15 an initial payment of \$3,000.00, plus airfare, for those expenses. Plaintiff subsequently  
16 sued Defendants, asserting claims premised on breach of contract, fraud and common  
17 count theories. Punitive damages were sought in connection with the fraud claim. The  
18 case ultimately went to jury trial commencing on December 2, 2013. According to  
19 Plaintiff, Defendants owed an unpaid balance of some \$32,960 for the ozone equipment  
20 used in the installation, along with approximately \$31,320 for on-site labor and services.  
21 Plaintiff further sought accrued interest on these unpaid balances.

22 Following a trial that extended over five days, the jury returned verdicts in favor of  
23 Plaintiff in all respects except that it found in favor of Defendant Lorna Randhawa dba  
24 Great Eastern Export & Trading Co on the fraud claim asserted against her. Otherwise,  
25 however, the verdicts on the breach of contract and common count claims were in favor

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26 <sup>1</sup> Unless noted to the contrary, all further references to “Rule” or “Rules” are to the Federal Rules  
27 of Civil Procedure.

28 <sup>2</sup> Because oral argument was not of material assistance, the Court ordered this matter submitted  
on the briefs. E.D. Cal. Local Rule 230(g).

1 of Plaintiff. The same damages were awarded as to each of those counts: a total of  
2 \$64,280.00 to compensate Plaintiff for its unpaid invoices with respect to both the ozone  
3 equipment (\$32,960.00) and installation services (\$31,320.00), as well as an additional  
4 \$64,280.00 in accrued interest, for total damages of \$128,560.00. In addition, with  
5 respect to the false promise fraud claim against Defendant Satvinder Palsingh  
6 Randhawa dba Great Eastern Export & Trading Co., the same \$128,560.00 in damages  
7 was returned by the jury. Finally, although the jury declined to award punitive damages  
8 as to Lorna Randhawa, it did award Plaintiff the sum of \$30,000.00 against her husband,  
9 Satvinder Randhawa.<sup>3</sup>

10 Defendants now move for judgment as a matter of law or, in the alternative, for a  
11 partial new trial, on all claims against them relating to the unpaid ozone equipment  
12 invoices, whether premised on breach of contract or on Plaintiff's common count claim.  
13 Defendants further move for a new trial with respect to any breach of contract/common  
14 count claims relating to the installation of the aeration system at issue on grounds that  
15 said claims are contrary to the clear weight of the evidence. Finally, Defendant  
16 Satvinder Randhawa requests judgment as a matter of law or, alternatively, a new trial  
17 as to the fraud claims and the award of punitive damages against him.

## 18 19 STANDARD

### 20 21 A. Motion for Judgment as a Matter of Law

22 A JMOL is proper only when "the evidence permits only one reasonable  
23 conclusion and the conclusion is contrary to that reached by the jury." Lakeside-Scott v.  
24 Multnomah County, 556 F.3d 797, 802 (9th Cir. 2009) (internal quotation marks and  
25 citation omitted); White v. Ford Motor Co., 312 F.3d 998, 1010 (9th Cir. 2002). To justify

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27 <sup>3</sup> The jury also returned verdicts absolving the ozone equipment vendor, Air Diffusions Systems, of  
28 negligence or comparative fault, but those verdicts have not been challenged by Defendants and are  
consequently not at issue in this Motion. Nor are Defendants challenging, for obvious reasons, the jury's  
rejection of any fraud claim with respect to Lorna Randhawa.

1 relief through a JMOL, there must be a “complete absence of probative facts to support  
2 the conclusion reached so that no reasonable juror could have found for the nonmoving  
3 party.” Eich v. Board of Regents for Central Missouri State Univ., 350 F.3d 752, 761 (8th  
4 Cir. 2003). While the Court should review the evidence comprising the record, it should  
5 “not make credibility determinations or weigh the evidence,” and further should construe  
6 all evidence in the light most favoring the nonmoving party, here Plaintiff. Reeves v.  
7 Sanderson Plumbing Co., 530 U.S. 133, 150-51 (2000).

8 In order to bring the present post-trial motion under Rule 50(b), Defendants must  
9 first have moved for JMOL prior to submission of the case to the jury. Fed. R. Civ. P.  
10 50(a). Here, the requisite motion was made by Defendants on December 6, 2013, prior  
11 to the time evidence closed on December 6, 2009, and was subsequently denied. That  
12 allowed Defendants to renew their motion for JMOL after entry of trial under Rule 50(b).  
13 Partial judgment as a matter of law is also available under the statute. Ace v. Aetna Life  
14 Ins. Co., 139 F.3d 1241 (9th Cir. 1997).

#### 15 16 **B. Motion for New Trial**

17 As an alternative to their request for JMOL, Defendants advocate for a partial new  
18 trial on grounds that the verdict ultimately reached by the jury was against the weight of  
19 the evidence. A district court has discretion to grant a new trial when the jury’s verdict is  
20 contrary to the “clear weight of the evidence,” is based on false evidence, or would result  
21 in a miscarriage of justice. Silver Sage Partners, Ltd. v. City of Desert Hot Springs, 251  
22 F.3d 814, 819 (9th Cir. 2001); Rattray v. City of Nat’l City, 51 F.3d 793, 800 (9th Cir.  
23 1994). The standard for assessing a motion for new trial differs from that applicable to a  
24 motion for JMOL under Rule 50(b) inasmuch as even if the verdict is supported by  
25 enough evidence to survive a 50(b) challenge, the Court in ruling on a new trial request  
26 has the obligation to set aside the verdict under Rule 59(a) if the verdict runs afoul of the  
27 “clear weight” of the evidence that has been presented. See Molski v. M.J. Cable, Inc.,  
28 481 F.3d 724, 729 (9th Cir. 2007).

1 A verdict is against the clear weight of the evidence when, after giving full respect  
2 to the jury's findings, the judge "is left with the definite and firm conviction that a mistake  
3 has been committed" by the jury. Landes Const. Co., Inc. v. Royal Bank of Canada,  
4 833 F.2d 1365, 1371-1372 (9th Cir. 1987) (citations omitted). In ruling on a motion for  
5 new trial, "the judge can weigh the evidence and assess the credibility of witnesses, and  
6 need not view the evidence from the perspective most favorable to the prevailing party."  
7 Air-Sea Forwarders, Inc. v. Air Asia Co., Ltd., 880 F.2d 176, 190 (9th Cir. 1989); see also  
8 United States v. Kellington, 217 F.3d 1084, 1095 (9th Cir. 2000).

9 Defendants can move for a partial new trial as long as the issues on which a new  
10 trial is sought are distinct enough that retrial as to those issues is not unjust to the non-  
11 moving party, here Plaintiff. Pumphrey v. K.W. Thompson Tool Co., 62 F.3d 1128,  
12 1133-34 (9th Cir. 1995).

## 14 ANALYSIS

### 16 A. Judgment as a Matter of Law

17 As set forth above, the standard for granting a motion for JMOL is a rigorous one.  
18 The Court must find a "complete absence" of facts to support the verdict such that no  
19 reasonable jury could have reached the decision it did. Eich v. Board of Regents,  
20 350 F.3d at 761. Moreover, all reasonable inferences have to be construed in favor of  
21 the Plaintiff, as the non-moving party. Reeves v. Sanderson Plumbing Co., 530 U.S. at  
22 150-51. Moreover, should it grant JMOL, the Court must have a "definite and firm  
23 conviction" that the jury erred. Landes Constr. Co., Inc. v. Royal Bank of Canada,  
24 833 F.2d at 1371-72.

25 Defendants' current request for JMOL, insofar as the breach of contract and  
26 common count claims are concerned, is limited to claims arising from Plaintiff's sale of  
27 the ozone equipment to Defendants. Defendants maintain there is insufficient evidence  
28 that they agreed to pay more than what was initially tendered, and that therefore

1 Defendants are entitled to judgment as a matter of law as to both Plaintiff's breach of  
2 contract and common count claims. Defendants further claim that, with respect to the  
3 fraud verdict against Satvinder Randhawa, there is no evidence to support any claim that  
4 Randhawa made any promise to pay without intention to perform, either with respect to  
5 sale of the ozone equipment or for services rendered in installing the equipment.

6 Turning first to the breach of contract and common count claims, Defendants  
7 concede that the viability of both claims is based on identical considerations. Defs.'  
8 Mot., 5:2-6. In essence, Defendants contend there was no evidence of any viable  
9 agreement for payment for the ozone equipment beyond the initial payment of some  
10 \$23,093.00. That argument simply cannot be sustained. There were a series of  
11 invoices entered into evidence at trial, along with testimony from Plaintiff's principal,  
12 Dennis Williams, that the \$23,093.00 payment was intended to cover Defendants' cost of  
13 the equipment so that the order could be processed and shipped to India by the  
14 manufacturer. There was also evidence that Defendants did not initially dispute the  
15 validity of those invoices, and only later informed Plaintiff they did not intend to pay.  
16 While Randhawa claims the invoices reflecting additional amounts were "fakes," the jury  
17 weighed the conflicting claims and found in Defendants' favor. Even Satvinder  
18 Randhawa indicated at trial that the case boiled down to "one of us lying." In finding for  
19 Plaintiff, the jury obviously found Plaintiff's witnesses, Mr. Williams and his son-in-law,  
20 Matt Alirol, more credible and gave credence to the invoices Williams and Alirol  
21 represented as genuine. Making that credibility determination in Plaintiff's favor cannot  
22 in any way, shape or form equate with a "complete absence" of facts that would justify  
23 this Court stepping in, post-judgment, and granting judgment as a matter of law in favor  
24 of Defendants.

25 The same considerations also defeat Defendant Satvinder Randhawa's claim that  
26 judgment as a matter of law should be entered as to the false promise claim decided by  
27 the jury against him. Defendants' fraud claims hinge on the contention that  
28 1) Randhawa promised to pay plaintiff the additional sum of \$56,053.00 for ozone

1 equipment without intent to perform; and 2) that Randhawa further promised to pay  
2 Plaintiff the sum of \$1,500.00 for each day Williams and Alirol spent in India installing the  
3 aeration equipment at Lake Nainital, again without the requisite intent to follow through  
4 on that commitment. As Plaintiff points out, Satvinder Randhawa's allegation that  
5 invoices supporting both claims were "fakes" aimed at tax avoidance belies any  
6 contention that Randhawa ever intended to honor the invoices. In approving damages  
7 based on both invoices, the jury again found Plaintiff's version of events more credible  
8 and, by accepting the invoices, and finding that Defendant Randhawa breached their  
9 terms, identified evidence upon which the jury's fraud verdict rests. As Dennis Williams  
10 testified, he would "never in a million years" have gone to India and worked more than  
11 20 days with Matt Alirol to install the aeration systems without expecting payment.  
12 Moreover, the time budget prepared by Matt Alirol as an estimate of what it would take to  
13 perform the installation would have been unnecessary had only a small lump-sum labor  
14 payment been contemplated as Satvinder Randhawa urged the jury to believe.<sup>4</sup>

15 In sum, Defendants' Motion for Judgment as a Matter of Law fails because there  
16 clearly was evidence from which the jury could find in Plaintiff's favor. Given the fact that  
17 resolution of this case largely hinged on credibility determinations that the jury resolved  
18 in Plaintiff's favor, and because this Court cannot discount that determination, it is not left  
19 with a "firm and definite conviction" that the jury got it wrong and that the jury's verdict  
20 must accordingly be supplanted with a contrary finding. This case is not appropriate for  
21 JMOL, and Defendants' request to that effect is denied.

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24 <sup>4</sup> The Court further notes that Defendants claim that Plaintiff has not proved legally cognizable  
25 damages with regard to the ozone equipment because, under California law, Plaintiff's claim should have  
26 been limited to "out of pocket" damages that would preclude damages based on a "benefit of the bargain"  
27 theory that would permit the recovery of lost profits. That argument is wrong. First, while California Civil  
28 Code § 3343, the statute relied upon by Defendants, does identify an "out of pocket" measure of damages,  
it specifically allows additional profits to be recovered "where the defrauded party has been induced by  
reason of the fraud to sell or otherwise part with the property in question." Cal. Civ. Code 3343(a)(3). In  
addition, the availability of supplemental profit damages under § 3343 is also recognized in Alliance  
Morrage Co. v. Rothwell, 10 Cal. 4th 1226, 1241 n.-5 (Cal. 1995), the case cited by Defendants.

1           **B. Motion for New Trial/Remittitur**

2           Defendants move for new trial or on “(1) damages of any sort that are based on  
3 the sale of the ozone equipment, (2) fraud and (3) punitive damages.” Defs.’ Mot.,  
4 9:17-18. In addition to arguing that the jury’s findings on these issues were contrary to  
5 the clear weight of the evidence and should consequently be vacated in their entirety,  
6 Defendant Satvinder Randhawa also asks in the alternative for a remittitur, or reduction  
7 of the \$30,000.00 punitive damage award rendered against him to a figure consistent  
8 with “the maximum amount sustainable by the proof.” D & S Redi-Mix v. Sierra Redi-Mix  
9 & Contracting Co., 692 F.2d 1245, 1249 (9th Cir. 1982) (applying that standard to  
10 remittitur).

11           Since a motion for new trial allows the Court to consider the “weight” of the  
12 evidence (under Rule 59(a)) rather than whether there is any evidence that exists to  
13 support the verdict (for a JMOL in accordance with Rule 50(b)), the scope of a motion for  
14 new trial is broader than a JMOL request. In addition, unlike a JMOL, the Court can  
15 weigh the credibility of the witnesses in ruling on a new trial request. Air-Sea  
16 Forwarders, Inc. v. Air Asia Co., Ltd., 880 F.2d at 190. In addition to being proper when  
17 the jury’s verdict is contrary to the “clear weight of the evidence,” a new trial may also be  
18 predicated on false evidence, or where the verdict would result in a miscarriage of  
19 justice. Silver Sage Partners, Ltd. v. City of Desert Hot Springs, 251 F.3d at 819.

20           Having considered the evidence and weighed the credibility of the parties, this  
21 Court cannot find that the jury’s verdict herein was contrary to the clear weight of the  
22 evidence. As stated above, the import of the documentary evidence largely hinged on  
23 the respective believability of the parties. Like the jury, this Court did not find convincing  
24 Defendants’ claims that Plaintiff wanted no more than their cost for the ozone equipment  
25 in selling it to Defendants, without any profit margin. Defendants’ claim that they owed  
26 no more than the initial payment needed to ship the equipment was even more  
27 farfetched when combined with their concurrent claim that they owed nothing more than  
28 a small initial payment (\$3,000.00 plus airline tickets) to Plaintiff for an installation



1 process that involved both Dennis Williams and Matt Alirol traveling to India and  
2 spending some 21 days to install the equipment. Accepting that contention would be  
3 tantamount to finding that Plaintiff not only intended to make no profit on selling the  
4 equipment to Defendants, but also agreed to install that equipment essentially for free at  
5 a remote location literally across the world. That contention on the part of Defendants is  
6 not credible, but incredible. The Court found, in general, that both the demeanor and  
7 substance of Defendants' testimony was less convincing than that offered by Dennis  
8 Williams and Matt Alirol. That factor, when combined with the invoices presented by  
9 Defendants (which also hinge on who to believe) causes the Court to conclude that the  
10 verdict in Plaintiff's favor, including the jury's finding that punitive damages were  
11 warranted, is supported by the weight of the evidence. Because there is also no  
12 indication of any false evidence, or any showing that the verdict amounts to a  
13 miscarriage of justice, Defendants' Motion for New Trial fails.

14 Finally, in arguing that the jury's punitive damages award in the amount of  
15 \$30,000.00 should be reduced through remittitur, Satvinder Randhawa argues that this  
16 amount bears no relation to the relatively modest assets he identified at trial. Again, the  
17 Court is unpersuaded. While Defendants argue that the value of their home when  
18 combined with their incomes cannot justify even the relatively nominal \$30,000.00  
19 award, this entire lawsuit stems from what appears to have been a lucrative, and fairly  
20 large scale, governmental contract to clean up Lake Nainital. Defendants also testified  
21 to also having been involved in other Indian governmental works projects thereafter.  
22 Given those circumstances, as well as the reprehensibility of Satvinder Randhawa's  
23 conduct in refusing to pay Plaintiff, this Court is unwilling to reject the punitive damages  
24 award rendered by the jury herein.

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**CONCLUSION**

For all the reasons set forth above, Defendants' Renewed Motion for Judgment as a Matter of Law, or in the Alternative for New Trial or Remittitur (ECF No. 216), is DENIED.

IT IS SO ORDERED.

Dated: August 5, 2014

  
MORRISON C. ENGLAND, JR., CHIEF JUDGE  
UNITED STATES DISTRICT COURT