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7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE EASTERN DISTRICT OF CALIFORNIA
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10 GRAFIL, INC.,

2:10-CV-00904-JAM-EFB

11 Plaintiff,

ORDER GRANTING TEMPORARY
RESTRAINING ORDER AND SETTING
HEARING ON MOTION FOR
PRELIMINARY INJUNCTION

12 v.

13 GENERAL PLASTICS CORPORATION,

14 Defendant.
15 _____/

16
17 This Court, having considered the papers and arguments
18 submitted in connection with and in opposition to Plaintiff's
19 Motion for Temporary Restraining Order, and good cause appearing
20 therefore, finds as follows:
21

22 Plaintiff has presented evidence that Defendant has
23 breached its contract to sell and deliver 13,200 gallons of
24 General Plastics Corporation's Genton 310 at a price of \$23.30
25 per gallon. The contract is evidenced by Plaintiff's Purchase
26 Order No. 26174-A and Defendant's Invoice No. 7111. The
27 evidence before the Court indicates a probability of success on
28

1 the merits in establishing Plaintiff's causes of action for
2 breach of contract. California Commercial Code Section 2716
3 gives Plaintiff the right to an order of specific performance in
4 such circumstances.
5

6 Plaintiff has also provided substantial evidence that it is
7 suffering, and will continue to suffer, irreparable harm absent
8 a restraining order. Plaintiff's evidence shows that Genton 310
9 is unique and, at least for a period of six months,
10 irreplaceable. Without supply of Genton 310, Plaintiff is
11 unable to manufacture a model of carbon fiber that generates
12 approximately \$3 million per year in revenues and meet its
13 obligations to its existing customers.
14

15 Compliance with the restraining order will, for the next
16 ten (10) days only, move Defendants back toward the *status quo*
17 *ante* the occurrence of the events that gave rise to this motion.
18 Given these considerations, the balance of equities favors
19 granting the motion.
20

21 IT IS HEREBY ORDERED THAT:

22 The Motion for Restraining Order is GRANTED as follows:

23 Defendants are Ordered to resume selling and delivering
24 General Plastics Corporation's Genton 310 according to the
25 quantities, delivery schedule, price and other terms set forth
26 in Grafil's Purchase Order No. 26174-A. Any shipments which
27 Defendants were required to make between April 12, 2010 and May
28

1 7, 2010 should be made immediately. No required shipments after
2 May 7, 2010 shall be made absent further Order of this Court.

3 This Court has considered whether Plaintiff will be ordered
4 to post a bond pursuant to Local Rules 151 and 231 and concludes
5 no bond for the Temporary Restraining Order is required. The
6 Court reserves the right to require a bond if a preliminary
7 injunction is issued.
8

9 This Order was issued on April 27, 2010 and will expire
10 within ten days, unless extended by order of the Court or by
11 consent of the parties.
12

13 Defendants may apply for a modification or dissolution of
14 this order on two court day's notice, by personal service or
15 other.
16

17 A hearing on Plaintiff's Motion for a Preliminary
18 Injunction shall be held on May 7, 2010 at 10:30 AM in Courtroom
19 6. Plaintiff may, but is not required to, file further briefing
20 on the Motion for Preliminary Injunction no later than April 30,
21 2010. Defendant's opposition shall be served and filed no later
22 than May 4, 2010. Plaintiff's Reply brief is due no later than
23 12:00 O'clock Noon on May 6, 2010.
24

25 IT IS SO ORDERED

26 DATED: April 27, 2010

27 /s/ John A. Mendez_____

28 U. S. DISTRICT COURT JUDGE