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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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CALIFORNIA DEPARTMENT OF
TOXIC SUBSTANCES CONTROL and
the TOXIC SUBSTANCES CONTROL
ACCOUNT,

Plaintiffs,

v.

JIM DOBBAS, INC., a
California corporation;
CONTINENTAL RAIL, INC., a
Delaware corporation; DAVID
VAN OVER, individually;
PACIFIC WOOD PRESERVING, a
dissolved California
corporation; and WEST COAST
WOOD PRESERVING, LLC, a
Nevada limited liability
company,

Defendants,

AND RELATED COUNTERCLAIMS AND
CROSS-CLAIMS.

CIV. NO. 2:14-595 WBS EFB
ORDER RE: MOTION TO STRIKE

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Plaintiffs California Department of Toxic Substances
Control ("DTSC") and the Toxic Substances Control Account

1 ("TSCA") brought this action under the Comprehensive
2 Environmental Response, Compensation, and Liability Act of 1980
3 ("CERCLA"), 42 U.S.C. §§ 9601 et seq., to recover cleanup costs
4 from defendants Jim Dobbas, Inc. ("Dobbas"), Continental Rail,
5 Inc., Pacific Wood Preserving, West Coast Wood Preserving, LLC
6 ("WCWP"), and David van Over. Dobbas, van Over, and WCWP
7 answered the Complaint. Plaintiffs now move to strike portions
8 of the Answer filed by van Over pursuant to Federal Rule of Civil
9 Procedure 12(f), including van Over's jury trial demand, request
10 for attorney's fees, and seventeen of van Over's forty-five
11 affirmative defenses.¹

12 For the reasons set forth in this court's September 16,
13 2014 Memorandum and Order, (Docket No. 43), IT IS HEREBY ORDERED
14 that:

15 (1) plaintiffs' motion to strike the jury demand of
16 defendant David van Over be, and the same hereby is, DENIED;

17 (2) plaintiffs' motion to strike the prayer for
18 attorney's fees of defendant David van Over be, and the same
19 hereby is, GRANTED;

20 (3) plaintiffs' motion to strike David van Over's
21 affirmative defenses be, and the same hereby is, DENIED with
22 respect to the ninth, tenth, and thirty-fourth affirmative
23 defenses and GRANTED in all other respects;

24 David Van Over has twenty days from the date this Order

25 ¹ The seventeen challenged affirmative defenses are van
26 Over's fifth, sixth, seventh, ninth, tenth, eleventh, twelfth,
27 thirteenth, fourteenth, twenty-seventh, twenty-eighth, thirty-
28 fourth, thirty-fifth, thirty-ninth, forty-first, forty-second,
and forty-fourth affirmative defenses. (Pls.' Mem. at 11-21
(Docket No. 27-1).)

1 is signed to file an amended answer or counterclaim, if he can do
2 so consistent with this Order.

3 Dated: October 16, 2014

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5 WILLIAM B. SHUBB
6 UNITED STATES DISTRICT JUDGE
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