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United States District Court
For the Northern District of California

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

OPERATING ENGINEERS' PENSION TRUST)	Case No. 09-0044 SC
FUND; GIL CROSTHWAITE AND RUSS)	
BURNS, as Trustees,)	ORDER RE: DEFENDANTS'
Plaintiffs,)	EIGHTH AFFIRMATIVE
)	<u>DEFENSE</u>
v.)	
CLARK'S WELDING AND MACHINE, a)	
California partnership, aka)	
CLARK'S WELDING, aka CLARK'S)	
WELDING AND MACHINING; SYLVESTER)	
HABERMAN, individually, and FRANZ)	
EDELMAYER, individually,)	
Defendants.)	
)	
)	

On July 28, 2009, the Court granted in part and denied in part Plaintiff's Motion to Strike Defendants' Affirmative Defenses. Docket No. 43. The eighth affirmative defense was dismissed with leave to amend, and Defendants had twenty (20) days to file an Amended Answer. Having failed to do so, the Court DISMISSES the eighth affirmative defense WITHOUT LEAVE TO AMEND.

IT IS SO ORDERED.

Dated: September 18, 2009



 UNITED STATES DISTRICT JUDGE