

United States District Court
For the Northern District of California

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E-FILED on: 8/21/09

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

OMER KASSA, individually; OMER KASSA
dba H & O, INC., and H & O, INC.,

Plaintiffs,

v.

BP WEST COAST PRODUCTS, LLC, dba
ARCO PRODUCTS COMPANY and DOES 1
to 50,

Defendants.

No. C-08-02725 RMW

ORDER DENYING DEFENDANT'S
MOTION TO DISMISS

[Re Docket No. 52]

Defendant BP West Coast Products LLC's motion to dismiss came on for hearing before the court on August 21, 2009. Plaintiff filed papers in opposition to the motion but did not appear at the hearing. Having considered the papers submitted by the parties and the arguments of defendant's counsel at oral argument, defendant's motion to dismiss is denied. Dismissal is too severe a sanction at this time.

Nevertheless, for good cause appearing, plaintiff is hereby ordered to produce all documents that have not yet been produced that are the subject of defendant's requests for production and which have been ordered to be produced by prior order of the court. These document shall be produced on or before September 8, 2009. Plaintiff shall be precluded from using any documents within this category that are not produced by that date. Plaintiff is further ordered to pay the remaining

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TER

1 monetary sanctions ordered by the court's June 22, 2009 Order on or before September 8, 2009.
2 Failure to pay the monetary sanctions as so ordered will result in dismissal of this action.

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DATED: 8/21/09



RONALD M. WHYTE
United States District Judge

