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3		E-FILED on: <u>8/21/09</u>	
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8	IN THE UNITED STATES DISTRICT COURT		
9	FOR THE NORTHERN DISTRICT OF CALIFORNIA		
10	SAN JOSE DIVISION		
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12	OMER KASSA, individually; OMER KASSA dba H & O, INC., and H & O, INC.,	No. C-08-02725 RMW	
13	Plaintiffs,		
14		ORDER DENYING DEFENDANT'S MOTION TO DISMISS	
15	v. BP WEST COAST PRODUCTS, LLC, dba		
16	ARCO PRODUCTS COMPANY and DOES 1 to 50,	[Re Docket No. 52]	
17	Defendants.		
18	Derendants.		
19	Defendant BP West Coast Products LLC's motion to dismiss came on for hearing before the		
20	court on August 21, 2009. Plaintiff filed papers in opposition to the motion but did not appear at the		
21	hearing. Having considered the papers submitted by the parties and the arguments of defendant's		
22	counsel at oral argument, defendant's motion to dismiss is denied. Dismissal is too severe a sanction		
23	at this time.		
24	Nevertheless, for good cause appearing, plaintiff is hereby ordered to produce all documents		
25	that have not yet been produced that are the subject of defendant's requests for production and which		

26 have been ordered to be produced by prior order of the court. These document shall be produced on

27 or before September 8, 2009. Plaintiff shall be precluded from using any documents within this

28 category that are not produced by that date. Plaintiff is further ordered to pay the remaining

ORDER DENYING MOTION TO DISMISS No. C-08-02725 RMW TER

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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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5	DATED: <u>8/21/09</u>	Romald M Whyte
6		RONALD M. WHYTE United States District Judge
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	ORDER DENYING MOTION TO DISMISS No. C-08-02725 RMW TER	2

United States District Court For the Northern District of California Notice of this document has been electronically sent to: 1 2 **Counsel for Plaintiffs:** 3 George Holland, Sr. georgehollandattorney@yahoo.com **Counsel for Defendants:** 4 5 Deborah Yoon Jones djones@wbcounsel.com Kurt Vandercook Osenbaugh kosenbaugh@wbcounsel.com MacKenzie Elizabeth Bright Hunt 6 mhunt@wbcounsel.com 7 Counsel are responsible for distributing copies of this document to co-counsel that have not 8 registered for e-filing under the court's CM/ECF program. 9 10 11 **Dated:** 8/21 /2009 TER **Chambers of Judge Whyte** 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 ORDER DENYING MOTION TO DISMISS No. C-08-02725 RMW 3 TER

United States District Court For the Northern District of California