

UNITED STATES DISTRICT COURT FOR  
THE DISTRICT OF COLORADO

Civil Action No. 04-cv-01961-LTB-CBS

SANFORD LEE HERTZ,

Plaintiff and Counterclaim Defendant,

v.

LUZENAC AMERICA, INC., a Delaware corporation,

Defendant and Counterclaim Plaintiff.

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**ORDER GRANTING PARTIES' STIPULATED MOTION**

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THIS MATTER comes before the Court on parties' "Stipulated Motion Regarding Punitive Damages," (*doc. # 428*) which was filed with the court on May 14, 2010. After careful review of the Stipulated Motion and the file, the Court has concluded that the parties' stipulations should be approved and entered as an order of the Court.

THEREFORE IT IS ORDERED as follows:

1. The parties may not further challenge each other's respective requests for punitive damages on procedural grounds, including that the party did not properly plead punitive damages, did not comply with C.R.S. § 13-21-102 or did not timely seek to pursue a prayer for punitive damages. The parties will be allowed to pursue punitive damages with respect to their pending claims, provided punitive damages are otherwise available with respect to each claim.
2. Each party preserves all objections to the substantive merits of the other party's request for punitive damages, which the party may challenge via motion, argument to the jury, or other appropriate manner.
3. In light of the parties' stipulation, Mr. Hertz's "Motion to Conform Prayer

for Relief in the Second Amended Complaint to Factual Allegations Supporting Punitive Damages”  
(docket entry #417) is moot. Neither party will recover attorney fees and costs associated with prevailing  
on such Motion.

DATED at Denver, Colorado, this 20<sup>th</sup> day of May, 2010.

BY THE COURT:

*s/Craig B. Shaffer* \_\_\_\_\_  
Craig B. Shaffer  
United States Magistrate Judge