



against that Golden Party in this action will be dismissed with prejudice. The words "not substantially prevail" shall mean either (a) that one or more of Counterclaim Counts 2, 3, 4 and 5 of the Second Amended Counterclaim in Case No. 8:06CV507 is dismissed, or (b) Sidump'r Trailer Company, Inc. recovers a judgment for nominal damages only on Counterclaim Counts 2, 3, 4 and 5 of the Second Amended Counterclaim in Case No. 8:06CV507.

4. If Sidump'r Trailer Company, Inc. substantially prevails on one or more of Counterclaim Counts 2, 3, 4 and 5 of the Second Amended Complaint against one or more of the Golden Parties in the Sidump'r Litigation, the parties' Stipulation (Doc. 68 in Case No. 8:09CV105) shall not govern or have any impact upon what, if any, effect such a judicial determination will have on Case No. 8:09CV105.

5. The Gemini Parties agree to be bound by all legal determinations made by the Court in Case No. 8:06CV507, whether made on summary judgment, pretrial motions, or during trial, except to the extent that such legal determinations shall be reversed or vacated on appeal as to Case No. 8:06CV507.

6. Acceptance of the Stipulation by the Golden Parties shall not constitute a waiver of any right the Golden Parties or any of them may have, and the Golden Parties retain all rights they or any one or more of them may have, other than the rights they are giving up under paragraphs 1 and 2 of the Stipulation (Doc. 68 in Case No. 8:09CV105).

**DATED September 23, 2009.**

**BY THE COURT:**

**s/ F.A. Gossett  
United States Magistrate Judge**