

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

RSG, Inc., a South Dakota Corporation, )  
R GROUP, INC., an Iowa Corporation, and )  
RANDALL S. GOLDEN, an Individual, )

Plaintiffs/ )  
Counter-defendants, )

v. )

SIDUMP'R TRAILER COMPANY, INC., a )  
Delaware Corporation, )

Defendant/ )  
Counterclaimant. )

8:06CV507

MEMORANDUM AND ORDER

This matter is before the court the motion of plaintiffs/counter-defendants RSG, Inc., R Group, Inc., and Randall S. Golden (hereinafter, collectively, "RSG") to amend the court's findings of fact and conclusions of law, Filing No. [303](#). RSG seeks additional findings on its affirmative defense of equitable estoppel. It argues that the defense provides an alternative ground for the court's dismissal of Sidump'r's fraud, breach of warranty, and rescission counterclaims.

The defendants oppose the motion. They argue that RSG is trying to gain an advantage in a separate litigation pending in this court, *Gemini Investors III, L.P. et al v. RSG, Inc.*, No 8:09CV105 (D. Neb.) ("*Gemini v. RSG*" or "the Gemini litigation"). In that case, to avoid delaying the present action and the risk of multiple jury verdicts on similar factual allegations, the parties entered into a stipulation agreeing to be bound by the court's judgment in the present case. See *Gemini Investors III, L.P. et al v. RSG, Inc.*, No 8:09CV105, Filing No. 68, Stipulation.

This action was tried to the court and a jury from April 6, 2010, to April 16, 2010. The court made several rulings at the close of evidence and RSG prevailed on the claims that were submitted to the jury. The court later entered an order making detailed factual findings and expressly stating that “[t]he court finds neither party is entitled to recover on its equitable claims.” Filing No. [301](#), Order at 34. Equitable relief is generally appropriate only in the absence of adequate legal relief. The court declines to revisit the issue. Accordingly, the court finds RSG’s motion should be denied.

IT IS ORDERED that plaintiffs’/counter-defendants’ motion to amend the court’s findings of fact and conclusions of law (Filing No. [303](#)) is denied.

DATED this 11<sup>th</sup> day of May, 2011.

BY THE COURT:

s/Joseph F. Bataillon  
Chief District Judge

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