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14 UNITED STATES DISTRICT COURT
15 DISTRICT OF NEVADA

16 COMPOSITE RESOURCES, INC.,

17 Plaintiff,

18 vs.

19 RECON MEDICAL, LLC,

20 Defendant.

Case No. 2:17-cv-01755-MMD-VCF

**STIPULATION AND [PROPOSED]
ORDER REGARDING ECF NO. 141**

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23 Plaintiff Composite Resources, Inc. (“CRI”) and Defendant Recon Medical, LLC
24 (“Recon” and with CRI the “Parties”), by and through their respective counsel and for good cause
25 shown stipulate and agree as follows:

26 On September 10, 2018 and with leave of the Court, CRI filed its Second Amended
27 Complaint (ECF No. 106) making a single and limited amendment.

28 On September 14, 2018 Recon filed its Answer (ECF No. 108).

1 CRI found Recon’s Answer objectionable and subsequently moved to strike. That motion
2 was fully briefed. (ECF Nos. 119, 123, and 131).

3 On November 9, 2018, Magistrate Ferenbach issued an Order striking Recon’s Answer
4 without prejudice and granting Recon until December 10, 2018 to file a limited answer, and to
5 file any motion to amend its answer under Federal Rule of Civil Procedure 15. (ECF No. 135 at
6 5:1-3).

7 On November 26, 2018 Recon filed Objections to the Magistrate’s Order. (ECF No. 141).

8 Recon’s primary concern is default or waiver of its counterclaims and defenses.

9 CRI’s primary concern is potential prejudice caused by Recon’s revisions in its Answer,
10 as discovery closed in June of 2018 and dispositive motions have been fully briefed for several
11 weeks.

12 Rather than engage in what is likely to be lengthy and substantial motion practice
13 regarding the pleadings at this stage of litigation, the Parties would prefer to conserve their
14 resources and not burden the Court.

15 Accordingly, the Parties stipulate as follows:

16 Recon’s prior answer (ECF No. 19) is deemed the operative and responsive pleading to
17 CRI’s Second Amended Complaint (ECF No. 106).

18 CRI’s answer (ECF No. 23) is deemed the operative and responsive pleading to Recon’s
19 counterclaims found in ECF No. 19.

20 If the Court accepts and enters this stipulation and order, Recon agrees that its Objection
21 (ECF No. 141) is deemed withdrawn, or alternatively denied as moot.

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If the Court declines to accept this stipulation and order, the Parties agree that CRI shall have seven days from the denial of this stipulation to file any response to Recon’s Objection (ECF No. 141).

ORDER

IT IS SO ORDERED.

Dated this 10thday of December, 2018.



UNITED STATES JUDGE

Dated: December 7, 2018.

Dated: December 7, 2018.

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