

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

KISANO TRADE & INVEST LIMITED,	)	
<i>et al.</i> ,	)	
	)	
Plaintiffs,	)	Civil Action No. 11-852
	)	Judge Cathy Bissoon
v.	)	Magistrate Judge Robert Mitchell
	)	
DEV LEMSTER, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**MEMORANDUM ORDER**

Kisano Trade & Invest Limited, and Trasteco Ltd. (“Plaintiffs”) bring the instant cause of action under the Racketeer Influenced Corrupt Organizations Act (“RICO”), 18 U.S.C. §§ 1961-68, and state law against Dev Lemster and Steel Equipment Corp. (“Defendants”). On June 18, 2011, Defendants filed a motion to dismiss, or, in the alternative, to strike portions of the complaint and sever Plaintiffs’ claims against them. (Doc. 4). Plaintiffs responded in opposition to this motion on August 9, 2011. (Doc. 10). Defendants filed a reply brief on August 23, 2011. (Doc. 11-12). Plaintiffs, with leave of Court, filed a sur-reply brief on August 29, 2011. (Doc. 14).

This matter was referred to a United States Magistrate Judge for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.C and 72.D of the Local Rules for Magistrate Judges. The magistrate judge issued a report and recommendation on September 27, 2011, recommending that Defendants’ motion to dismiss, or, in the alternative, to strike and sever, be denied. (Doc. 24). Defendants file objections to the report on October 14, 2011. (Doc. 25). Plaintiffs responded to the objections on October 25, 2011. (Doc. 26).

After *de novo* review<sup>1</sup> of the pleadings and documents in the case, together with the report and recommendation (Doc. 24), Defendants' objections thereto (Doc. 25), and Plaintiffs' response (Doc. 26), the following ORDER is entered:

AND NOW, this 17th day of November, 2011,

IT IS HEREBY ORDERED that Defendants' motion to dismiss, or, in the alternative, to strike and sever (Doc. 4), is DENIED.

IT IS FURTHER ORDERED that the magistrate judge's report and recommendation (Doc. 24) is adopted as the opinion of this Court.

BY THE COURT:

s\Cathy Bissoon  
CATHY BISSOON  
UNITED STATES DISTRICT JUDGE

cc (via ECF email notification):

All Counsel of Record

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<sup>1</sup> The portions of Defendants' motion relating to striking parts of the complaint and severing Plaintiffs' claims are, strictly speaking, non-dispositive. Accordingly, it would have been well within the magistrate judge's authority – although stylistically awkward – to have addressed them in a separate order, instead of in the report. See 28 U.S.C § 636(b)(1)(A). The standard of review regarding Defendants' objections to such an order would have been whether the magistrate judge's findings were clearly erroneous or contrary to law. Id. However, as the magistrate judge's conclusions regarding this matter came in the form of a report, and not an order, this Court is bound to conduct *de novo* review. 28 U.S.C. § 636(b)(1).