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10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA

12 UNITED STATES, THE STATES OF
CALIFORNIA, DELAWARE,
13 FLORIDA, ILLINOIS, INDIANA,
NEVADA, NEW MEXICO, NEW
14 YORK, and TENNESSEE, THE
15 COMMONWEALTHS OF
16 MASSACHUSETTS AND VIRGINIA,
and THE DISTRICT OF COLUMBIA
17 ex rel. JOHN HENDRIX,

18 Plaintiffs,

19 v.

20
21 J-M MANUFACTURING COMPANY,
22 INC., d/b/a JM Eagle, a Delaware
corporation, and FORMOSA
23 PLASTICS CORPORATION, U.S.A.,
24 a Delaware corporation,

25 Defendants.

Case No. EDCV 06-55-GW(PJWx)

Hon. George H. Wu

ORDER RE:

**(1) FPC-USA'S MOTION TO
DISMISS RELATOR'S FOURTH
AMENDED COMPLAINT; AND**

**(2) FPC-USA'S MOTION TO
STRIKE SELECT ALLEGATIONS
OF RELATOR'S FOURTH
AMENDED COMPLAINT**

Hearing Date: October 24, 2011

Time: 8:30 a.m.

Ctrm: 10 (Spring St.)

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27
28

ORDER

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

On Monday, October 24, 2011, at 8:30 a.m., in Courtroom 10 of the above-entitled Court, Defendant Formosa Plastics Corporation, U.S.A. (“FPC-USA”)’s Motion to Dismiss *Qui Tam* Plaintiff John Hendrix (“Relator”)’s Fourth Amended Complaint [DKT No. 423] (“FPC-USA’s Motion to Dismiss”) and Motion to Strike Select Allegations of Relator’s Fourth Amended Complaint [DKT No. 424] (“FPC-USA’s Motion to Strike”), came on for regularly scheduled hearing, the Honorable George H. Wu presiding. Appearances are reflected on the record.

Having duly considered FPC-USA’s Motion to Dismiss and Motion to Strike, all oppositions, reply and supplemental papers, arguments of counsel, and all other matters presented to the Court in relation thereto,

IT IS HEREBY ORDERED THAT:

(1) For the reasons set forth in the Court’s Tentative Ruling of October 24, 2011, a true and correct copy of which is attached hereto as Exhibit “A” and fully incorporated herein by reference, FPC-USA’s Motion to Dismiss is DENIED as to Counts III, X, XII, and XVII of Relator’s Fourth Amended Complaint.

(2) For the reasons set forth in the Court’s Tentative Ruling of October 24, 2011, FPC-USA’s Motion to Dismiss is GRANTED as to Count XIV (New Mexico) of Relator’s Fourth Amended Complaint. The claims asserted by New Mexico against FPC-USA in the Fourth Amended Complaint are hereby dismissed with prejudice.

(3) The parties shall meet and confer no later than November 9, 2011 concerning a negotiated resolution of FPC-USA’s Motion to Strike. If the parties are able to reach a negotiated resolution of the Motion to Strike, the parties shall file a joint stipulation so indicating by noon Pacific Time on November 11, 2011. Five days after the filing of the joint stipulation, Relator will file a Fifth Amended

1 Complaint that includes allegations from Relator's Offer of Proof [DKT No. 477]
2 and that conforms to the parties' agreement concerning the Motion to Strike.

3 (4) To the extent the parties are unable to resolve all of their differences on
4 the Motion to Strike, the parties will jointly file by noon Pacific Time on November
5 15, 2011 a chart identifying: (1) the remaining contested provisions referenced in
6 the Motion to Strike; (2) the type or "category" of allegations at issue for the
7 remaining contested provisions; and (3) a concise description of the parties'
8 disagreement. The joint submission shall also include a brief statement identifying
9 the provisions referenced in the Motion to Strike upon which the parties have been
10 able to reach agreement, if any, and shall be accompanied by no more than three (3)
11 pages of argument from each side in support of the parties' respective positions.

12 (5) The Court will schedule a hearing on **December 1, 2011 at 8:30 a.m.** to
13 hear argument on the Motion to Strike if the Court deems it necessary. Five days
14 after the Court's issuance of an Order resolving the Motion to Strike, Relator will
15 file a Fifth Amended Complaint that conforms to that Order and to the Court's
16 Order on FPC-USA's Motion to Dismiss.

17 (6) Twenty-one (21) days from the date on which the Fifth Amended
18 Complaint is served upon it, FPC-USA will Answer the Fifth Amended Complaint.

19
20 IT IS SO ORDERED.

21
22 DATE: November 7, 2011



23 _____
24 Honorable George H. Wu
25 U.S. DISTRICT COURT JUDGE
26
27
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PROOF OF SERVICE

I am an attorney admitted to practice in the State of California. I am over the age of 18 and not a party to this action. My business address is Day Pitney LLP, 1100 New York Avenue, NW, Suite 300, Washington, DC 20005.

On November 3, 2011, I caused to be served copies of the forgoing document on each interested party as follows:

[X] (By Electronic Transfer to the CM/ECF System) In accordance with Federal Rules of Civil Procedure 5(d) (3), Local Rule 5-4, and General Order 10-07, I uploaded via electronic transfer a true and correct copy scanned into an electronic file in Adobe “pdf” format of the above-listed document to the United States District Court Central District of California’s Case Management and Electronic Case Filing (CM/ECF) system on this date. It is my understanding that by transmitting these documents to the CM/ECF system, they will be served on all parties of record according to the preferences chosen by those parties within the CM/ECF system. The transmission was reported as complete and without error.

[X] (US Mail) A true and correct copy of the document described above has also been mailed to the following parties via US Mail:

Joseph A Brajevich
Los Angeles City Attorney’s Office
Department of Water and Power
111 North Hope Street Suite 340
Los Angeles, CA 90012

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that I am admitted as a member of the bar of this court.

Executed on November 3, 2011, in Washington, D.C.

By: /s/ Brent N. Rushforth
Brent N. Rushforth