

TENTATIVE RULING

The Motion to strike filed by Defendant Sierra Pacific Industries (SPI) as to Paragraph 156 is granted with leave to amend. The motion is denied with respect to the remainder of the motion.

A motion to strike may be brought when a pleading, or any part thereof, contains any irrelevant, false or improper matter inserted in any pleading or when it is not drawn or filed in conformity with the laws of this State, a court rule or order of court. CCP § 436.

As to Paragraph 156, the Court agrees that the requested relief sought in Paragraph 156(2) is a request for damages, not supported by the Unfair Competition Laws (UCL) of California. Business & Professions Code (B&P) 17203. Plaintiff California-Engels Mining Company (Plaintiff) seeks a bond or insurance to honor a financial obligation resulting from a fire causing damages to a third party due to timber harvesting activities. Complaint ¶ 156. The remedies available under the UCL do not provide for damages. See B&P § 17203. As pled, Plaintiff seeks insurance or a bond based on a future damages award. Since this remedy is not supported by the statute, it is improperly concluded in the Complaint. Plaintiff may file an amended Complaint within twenty (20) days. Defendants will have 20 days from the date of service to file a responsive pleading.

As to the remainder of the motion, it is denied as Plaintiff has pled facts sufficient to support a request for punitive and treble damages. Whether Plaintiff will ultimately prevail in proving the intent elements for these items remains to be seen.

The minute order is effective immediately. No formal order pursuant to CRC Rule 3.1312 or further notice is required.

To request a hearing in this matter, you must call the Court at 530-283-6297 by 12:00 noon, March 19, 2010. Notice of intention to appear must also be given to all other parties. If the clerk is not notified of a party's intention to appear, there will be no hearing and the tentative ruling becomes the order of the Court.

Dated: March 16, 2010

IRA R. KAUFMAN
Judge of the Superior Court