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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

RADIATOR EXPRESS WAREHOUSE,
INC., d/b/a 1-800-RADIATOR,

Plaintiff,

v.

PERFORMANCE RADIATOR PACIFIC,
LLC, and PERFORMANCE CONTAINER
CO., LLC,

Defendants.

Case No. 09-5691RJB

ORDER GRANTING RADIATOR
EXPRESS' MOTION TO
COMPEL PRODUCTION OF
DOCUMENTS BY
PERFORMANCE RADIATOR

This matter comes before the court on the above-referenced motion (Dkt. 53). The court is familiar with the records and files herein and all documents filed in support of and in opposition to the motion. The court is fully advised.

In this motion, plaintiff requests “a full and complete production” in response for plaintiff’s requests for production 12, 13, 14, 18 and 19. Defendant makes numerous objections and argues that they have properly responded to the request for production.

While plaintiff uses somewhat of a scatter-gun approach, defendants have not offered proof of any of their objections. Notably, the fact that defendants have produced “several thousand pages of documents” is not relevant if they had and did not produce documents specifically requested. From the information presented by defendants, it is impossible to tell whether defendants have, in fact, made a diligent search for documents. Statements like, “The

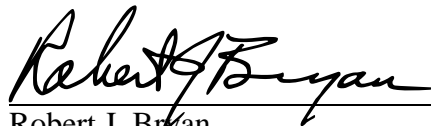
1 burden and expense to produce *all* emails without regard to relevance would outweigh any
2 benefit.” (Dkt. 59 at 4) does not give the court any specific information that would justify
3 upholding an objection to the request for production. Defendants’ objections have simply not
4 been proved up.

5 Defendants should now take the following steps: First, defendants should produce all
6 documents in their possession, custody and control responsive to document request numbers 12,
7 13, 14, 18 and 19, and should provide complete written responses to said requests, including an
8 explanation of the circumstances under which responsive documents that were in existence but
9 are no longer in defendants’ possession, were destroyed or transferred out of defendant’s
10 possession, custody or control. Second, insofar as documents that are not and never were in
11 existence, to the knowledge of defendants, such response should be made under oath by someone
12 with knowledge representing the defendants. Third, defendants should describe, in detail, their
13 search for documents responsive to plaintiff’s request.

14 IT IS SO ORDERED.

15 The Clerk is directed to send copies of this Order all counsel of record and any party
16 appearing *pro se* at said party’s last known address.

17 DATED this 2nd day of September, 2010.

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20 Robert J. Bryan
21 United States District Judge
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