UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

CALAMCO, Plaintiff, v. J.R. Simplot Company, et al., Defendants. And related counterclaims.	No. 2:21-cv-01201-KJM-CSK ORDER

On July 3, 2025, plaintiff Calamco moved to strike the declaration of Keith Ugone, Ph.D., an expert retained by defendant and counterclaimant J.R. Simplot Company. ECF No. 158. Simplot filed its opposition to that motion on July 17, 2025. ECF No. 162. Before plaintiff's reply came due, this court issued an order granting in part and denying in part Calamco's previously filed motion for summary judgment. ECF No. 164. Calamco then filed its reply in support of its pending motion to strike. ECF No. 165. It contends the intervening summary judgment order renders Dr. Ugone's opinions irrelevant, and thus moots the pending motion to strike. *See id.* at 1–2 & n.1. Calamco represents, however, that Simplot disagrees with this

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interpretation of the summary judgment order and contends Dr. Ugone's opinions are still relevant. *See id.*

Because Simplot filed its opposition to Calamco's pending motion to strike before this court issued its summary judgment order, Simplot has not had an opportunity to address the effects of that order on the pending motion to strike. The court will therefore permit Simplot to file an optional surreply addressing the effects of this court's summary judgment order on the pending motion to strike. Any such surreply must be filed **within seven days** and must not exceed five pages. The court will take the pending motion to strike under submission without a hearing upon the submission of any surreply, or after seven days, in the event Simplot elects not to file a surreply. The hearing set for August 28, 2025 before Judge Mueller is vacated.

IT IS SO ORDERED.

DATED: July 31, 2025.

SENIOR UNITED STATES DISTRICT JUDGE