

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF IDAHO

SIMPLOT LIVESTOCK CO. and J.R.  
SIMPLOT COMPANY,

Plaintiffs,

vs.

SUTFIN LAND & LIVESTOCK,

Defendant.

Including All Counterclaims & Third  
Party Complaints.

Case No. 1:16-cv-00139-EJL-REB

**DECISION ADOPTING REPORT &  
RECOMMENDATION (DKT. 47)**

**INTRODUCTION**

On August 17, 2018, United States Magistrate Judge Ronald E. Bush issued a Report and Recommendation Re Cross-Motions for Summary Judgment (Dkts. 31, 33) (“Report and Recommendation”) in the above-captioned case. (Dkt. 47.) Judge Bush recommended that the parties' summary judgment motions be granted in part and denied in part as discussed more fully below. (*Id.*)

Any party may challenge the Magistrate Judge’s proposed recommendation by filing written objections within fourteen days after being served with a copy of the Report. 28 U.S.C. § 636(b)(1)(C). Objections to the Report and Recommendation were due by August 31, 2018. No objections were filed. Accordingly, the matter is now ripe for this Court’s consideration. Fed. R. Civ. P. 72; Local Civ. R. 72.1(b).

### STANDARD OF REVIEW

Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court “may accept, reject, or modify, in whole or in part, the findings and recommendations made by the magistrate judge.” Where the parties object to a report and recommendation, this Court “shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.* Where, however, no objections are filed the district court need not conduct a *de novo* review. “When no timely objection is filed, the Court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Advisory Committee Notes to Fed. R. Civ. P. 72 (citing *Campbell v. United States Dist. Court*, 501 F.2d 196, 206 (9th Cir. 1974)). Further, to the extent that no objections are made, arguments to the contrary are waived. *See* Fed. R. Civ. P. 72; 28 U.S.C. § 636(b)(1) (objections are waived if they are not filed within fourteen days of service of the Report and Recommendation).

### DISCUSSION

The Court has reviewed the docket in its entirety including the parties’ briefing on the cross-motions for summary judgment and Judge Bush’s Report and Recommendation (Dkt. 47). Finding no clear error on the face of the record, the undersigned adopts the Report and Recommendation in its entirety.

### ORDER

NOW THEREFORE IT IS HEREBY ORDERED that the Report and Recommendation entered on August 17, 2016 (Dkt. 47) is **ADOPTED IN ITS ENTIRETY** as follows:

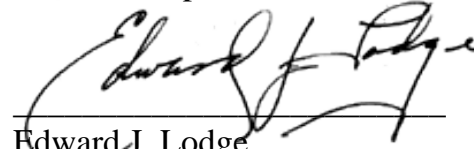
DECISION ADOPTING REPORT AND RECOMMENDATION (DKT. 47)- 2

(1) Plaintiffs' Motion for Summary Judgment (Dkt. 31) is **GRANTED IN PART and DENIED IN PART**. Summary judgment is granted in favor of Plaintiffs as to Counts Three (breach of fiduciary duty), Four (violation of the Idaho Consumer Protection Act), and Five (negligence) of Defendant's Counterclaim. In all other respects the motion is denied.

(2) Defendant's Motion for Partial Summary Judgment (Dkt. 33) is **GRANTED IN PART and DENIED IN PART**. Summary judgment is granted in favor of Defendant as to Count One of the First Amended Complaint (breach of contract) as to Simplot Livestock Co. only. Summary judgment is also granted in favor of Defendant as to Count Two of the Amended Complaint (breach of the covenant of good faith and fair dealing). In all other respects the motion is denied.



DATED: September 6, 2018

  
Edward J. Lodge  
United States District Judge