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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

<p>Plaintiff(s),</p> <p>v.</p> <p>Defendant(s).</p>	<p>Case No.</p> <p>STANDING ORDER</p>
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READ THIS ORDER CAREFULLY. IT CONTROLS THIS CASE AND DIFFERS IN SOME RESPECTS FROM THE LOCAL RULES.

This action has been assigned to Judge André Birotte Jr. Judge Birotte conducts all proceedings in Courtroom 7B of the First Street Courthouse, 350 West First Street, Los Angeles, CA 90012.

The responsibility for the progress of litigation in the federal courts falls upon the attorneys in the action and upon the Court. “To secure the just, speedy, and inexpensive determination of every action,” Fed. R. Civ. P. 1, all counsel, including pro se litigants¹, are hereby ordered to familiarize themselves with the Federal Rules

¹ Parties appearing pro se must comply with the Federal Rules of Civil Procedure and the Local Rules. See Local Rules 1-3 and 83-2.2.3.

1 of Civil Procedure, particularly Fed. R. Civ. P. 16 and 26, the Local Rules of the
2 Central District of California (“Local Rules”) and this Court’s Order Re: Jury/Court
3 Jury Trial.² The parties may also wish to familiarize themselves with the following:

- 4 • The Central District of California’s website: <http://www.cacd.uscourts.gov>
- 5 • Judge Birotte’s webpage: <http://www.cacd.uscourts.gov/honorable-andre-birotte-jr>

6 **UNLESS THE COURT ORDERS OTHERWISE,**

7 **THE FOLLOWING RULES APPLY.**

8 **1. Service of the Complaint.** The Plaintiff(s) shall promptly serve the
9 Complaint in accordance with Fed. R. Civ. P. 4 and file the proofs of service pursuant
10 to Fed R. Civ. P. 4(l). Any Defendant(s), including “DOE” or fictitiously-named
11 Defendant(s), not served within 90 days after the case is filed shall be dismissed
12 pursuant to Fed. R. Civ. P. 4(m).

13 **2. Removed Actions.** Any Answers filed in state court must be refiled in
14 this Court as a supplement to the Notice of Removal. Any pending motions must be
15 re-noticed in accordance with Local Rule 7. If an action removed to this Court
16 contains a form pleading, *i.e.*, a pleading in which boxes are checked, the party or
17 parties that filed the form pleading must file in this Court within thirty (30) days of
18 receipt of the Notice of Removal a revised pleading that complies with Fed. R. Civ. P.
19 7, 7.1, 8, 9, 10 and 11.

20 **3. Presence of Counsel.** In an effort to provide more experience to the next
21 generation of practitioners, the Court encourages lead counsel to permit junior counsel
22 to fully participate in Court proceedings, including to argue motions and to examine
23 witnesses at trial. The Court is more likely to hear oral argument if any party files a
24 notice at least 7 days before a scheduled hearing stating that junior counsel will
25 conduct the argument, or at least the lion’s share. The Court requires lead counsel to
26 appear for scheduling conferences and the Final Pretrial Conference.

27 _____
28 ² The Local Rules are available on the Court’s website.

1 **4. Calendar Conflicts.** If any counsel discovers a calendar conflict with a
2 scheduled appearance, counsel must inform opposing counsel and the Courtroom
3 Deputy Clerk (“CRD”) via Chambers email at AB_chambers@cacd.uscourts.gov as
4 soon as possible and not later than three days before the scheduled appearance.
5 Counsel should attempt to agree on a new date to accommodate the calendar conflict.
6 Counsel must propose a new date by Stipulation and Proposed Order.

7 **5. Discovery.** All discovery matters are referred to the assigned United
8 States Magistrate Judge assigned to this case. The Magistrate Judge’s initials follow
9 the Judge’s initials next to the case number. All documents relating to discovery
10 matters must include the words “DISCOVERY MATTER” in the caption to ensure
11 proper routing. Please do not deliver mandatory chambers copies of these papers to
12 the District Court Judge.

13 Counsel must follow the Magistrate Judge’s procedures for scheduling matters
14 for hearing. These procedures are stated on each Magistrate Judge’s webpage.

15 The Magistrate Judge’s decision shall be final, subject to modification by the
16 District Court Judge only where the Magistrate Judge’s order is clearly erroneous or
17 contrary to law. *See* 28 U.S.C. § 636(b)(1)(A). Any motion for review of a
18 Magistrate Judge’s decision must be noticed before the District Court Judge within
19 fourteen (14) days of service of the Magistrate Judge’s written ruling, or within
20 fourteen (14) days of an oral ruling that the Magistrate Judge states will not be
21 followed by a written ruling. The motion must specify which portions of the ruling
22 are clearly erroneous or contrary to law, and the claim must be supported by points
23 and authorities. Counsel shall provide the Magistrate Judge chambers copies of the
24 moving papers and responses.

25 **6. Motions - General Requirements**

26 **a. Time for Filing and Hearing Motions:** Motions must be filed in
27 accordance with Local Rules 6 and 7. Judge Birotte hears civil motions on Fridays
28 beginning at 10:00 a.m. The Friday after any Monday holiday is closed to hearings.

1 Closed motion dates are shown on Judge Birotte’s webpage. The parties must adhere
2 to the briefing schedule set forth in Local Rule 7-9 and 7-10, and the schedule herein
3 for Rule 56 motions, so that Chambers has sufficient time to prepare. If a motion is
4 noticed for a date that is not available, the Court may strike or reset the motion.
5 Professional courtesy dictates that the parties should accommodate each other’s
6 schedules, including vacation and holiday schedules, whenever possible.

7 **Local Rule 7-3 Pre-Filing Meet and Confer Requirement:** The
8 Court strictly enforces Local Rule 7-3, which requires counsel to engage in a pre-
9 filing conference “to discuss thoroughly . . . the substance of the contemplated motion
10 and any potential resolution.” This Court also requires the parties to meet and confer
11 about *any* potentially disputed matter (except those identified in Local Rules 7-3 and
12 16-12) before presenting it to the Court, including requests to continue any matter,
13 applications to file under seal, and other filings seeking a court order. The purpose of
14 meeting and conferring is to attempt to obviate the need for a motion and thus avoid
15 unnecessary Court intervention, or to narrow the scope of issues the Court must
16 resolve; the parties **must** meet and confer in a good faith attempt to fulfil this purpose.
17 Pro se litigants must also comply. The Notice of Motion or other request **must**
18 include a statement of compliance with Local Rule 7-3. The Court may strike or
19 outright deny a motion or other relief if counsel fails to meet and confer in good faith.

20 **Length and Format of Motion Papers:** Memoranda of points and
21 authorities in support of or in opposition to motions shall not exceed 25 pages.
22 Replies shall not exceed 15 pages. Only rarely and for good cause shown will the
23 Court grant an application to extend these page limitations. Pursuant to Local Rule
24 11-3.1.1, either a proportionally spaced or monospaced face may be used. Typeface
25 shall comply with Local Rule 11-3.1.1. Times New Roman font must be no less than
26 14 point; Courier font must be no less than 12 point. Footnotes shall be in the same
27 font and the same size as the body of the memorandum.

1 **d. Citations to Cases:** Citations to cases must be in Bluebook
2 format. Citations to cases must include pinpoint citations (citations to page numbers).
3 For unreported cases, the Court prefers Westlaw citations.

4 **e. Citations to Other Sources:** Statutes should be cited in
5 accordance with the Bluebook. Statutory references should identify with specificity
6 the sections and subsections referenced (e.g., “Jurisdiction over this cause of action is
7 based on 47 U.S.C. § 33, which grants the district courts jurisdiction over all
8 violations of the Submarine Cable Act.”). Statutory citations that do not specifically
9 indicate the appropriate section and subsection (e.g., “Plaintiffs allege that
10 Defendant’s conduct violates the Federal Electronic Communication Privacy Act, 18
11 U.S.C. § 2511, *et seq.*”) should be avoided. Citations to treatises, manuals, and other
12 materials should include the volume, section, and pages being referenced.

13 **f. Oral Argument:** Pursuant to Fed. R. Civ. P. 78 and Local Rule 7-
14 15, the Court may deem a matter appropriate for decision without oral argument. If
15 the Court does so, it will notify the parties in advance.

16 **7. Specific Motion Requirements**

17 **a. Motions Pursuant to Rule 12:** Motions to dismiss or to strike can
18 often be avoided if the parties meet and confer in good faith as required by Local Rule
19 7-3, especially for perceived defects in a complaint, answer, or counterclaim that
20 could be corrected by amendment. *See Chang v. Chen*, 80 F.3d 1293, 1296 (9th Cir.
21 1996) (where a motion to dismiss is granted, a district court should provide leave to
22 amend unless it is clear that the complaint could not be saved by any amendment).
23 Moreover, a party may “amend its pleading once as a matter of course” within twenty-
24 one (21) days of serving it, or “if the pleading is one to which a responsive pleading is
25 required, 21 days after service of a responsive pleading or 21 days after service of a
26 motion under Rule 12(b), (e), or (f), whichever is earlier.” Fed. R. Civ. P. 15(a)(1).
27 Even if the time for amending a complaint as a matter of course has run, or if a
28 complaint has already been amended, “[t]he court should freely give leave when

1 justice so requires.” The Ninth Circuit requires that this policy favoring amendment
2 be applied with “extreme liberality.” *Morongo Band of Mission Indians v. Rose*, 893
3 F.2d 1074, 1079 (9th Cir. 1990).

4 These principles require that plaintiff’s counsel evaluate defendant’s
5 contentions as to the deficiencies in the complaint to determine if an amendment
6 would cure the defects. The moving party in turn should agree to any amendment that
7 would cure the defect.

8 **b. Motions to Amend:** In addition to the requirements of Local Rule
9 15-1, all motions to amend pleadings shall: (1) state the effect of the amendment; (2)
10 be serially numbered to differentiate the amendment from previous amendments; and
11 (3) state the page and line number(s) and wording of any proposed change or addition
12 of material. The party shall deliver to Chambers a “redlined” version of the Proposed
13 amended pleading indicating all additions and deletions of material.

14 **c. Summary Judgment Motions:** No party may file more than one
15 motion pursuant to Fed. R. Civ. P. 56, regardless of whether such motion is
16 denominated a motion for summary judgment or summary adjudication, without leave
17 of Court. If a party believes this is one of the rare instances in which there is good
18 cause for more than one summary judgment motion or to increase page limits, the
19 party shall seek leave by a noticed motion setting forth good cause. Pursuant to Fed.
20 R. Civ. P. 56(f), if appropriate based on undisputed facts and controlling principles of
21 law, the Court may sua sponte enter summary judgment in favor of the non-moving
22 party.

23 Also, the Court will not entertain cross-motions, meaning motions that ask the
24 Court to adjudicate the same legal issues. If parties wish to cross-move for summary
25 judgment, their counsel shall meet and confer to determine which party will be the
26 moving party and which will be the opposing party on summary judgment.

1 Parties need not wait until the motion cutoff to bring motions for summary
2 judgment or partial summary judgment. **This Court requires an extended briefing**
3 **schedule for motions under Rule 56, as follows:**

- 4 • **Any Rule 56 Motion**: must be **filed at least 5 weeks before the noticed**
5 **hearing date.**
- 6 • **Opposition**: must be **filed 3 weeks before hearing date** (2 weeks after
7 the Motion is filed).
- 8 • **Reply**: must be **filed 2 weeks before hearing date** (1 week after the
9 opposition is filed).

10 The above briefing schedule is the default. The parties may stipulate to a
11 lengthier schedule that is reasonable for all parties. Any briefing schedule must
12 provide at least two weeks between the reply deadline and the hearing date.

13 Because summary judgment motions are fact and evidence intensive, parties
14 should prepare papers in a fashion that will assist the court in absorbing the mass of
15 material (e.g., generous use of tabs, tables of contents, headings, indices, etc.). The
16 parties must comply precisely with Local Rule 56-1 and 56-2. The Court will deem
17 facts admitted in accordance with Local Rule 56-3.

18 **i. Statement of Undisputed Facts and Statement of**
19 **Genuine Issues**

20 The separate statement of undisputed facts shall be in a two-column table, as
21 shown below. The left column sets forth narrowly-focused, undisputed facts as
22 concisely as possible in sequentially numbered paragraphs. The right column sets
23 forth the evidence that supports the factual statement. Where feasible, parties should
24 use headers to group facts relevant to a particular issue.

1 **Plaintiff’s Claim for Breach of Contract is Barred by the Statute of Limitations.**

Undisputed Fact	Evidence
3 1. Mike and Jane signed a contract for 4 the sale and purchase of property.	Smith Decl. (Dkt. No. 61-2) ¶ 5, Ex. 6.
5 2. Jane mailed the contract in May 2017.	Smith Decl. ¶ 8, Ex. 21.

6
7 The opposing party’s statement of genuine issues must also be in a two-column
8 table and exactly track the movant’s separate statement. The left column must restate
9 the allegedly undisputed fact and its supporting evidence. The right column must (i)
10 state that the fact is undisputed or disputed, (ii) briefly state why the opposing party
11 disputes the fact, (iii) cite with specificity the evidence that refutes the fact, and (iv)
12 explain how the cited evidence refutes the fact.
13

14 **Plaintiff’s Claim for Breach of Contract is Barred by the Statute of Limitations.**

Undisputed Fact and Evidence	Disputed / Undisputed and Evidence
15 1. Mike and Jane signed a contract for 16 the sale and purchase of property. 17 Smith Decl. (Dkt. No. 61-2) ¶ 5, Ex. 6.	Disputed. Jane testified that the contract was for a lease, not a purchase. Jane Depo (Smith Decl. Ex. 4) at 29:4-16.
19 2. Jane mailed the contract in August 20 2017. 21 Smith Decl. ¶ 8, Ex. 21.	Disputed as to date. Jane testified she mailed the contract in May 2017. Jane Depo. at 3:4-10.

22
23 Do not include legal argument in this document. The opposing party may
24 dispute all or only a portion of the statement, but if disputing only a portion, it must
25 clearly indicate what part is being disputed. The Court will not wade through a
26 document to determine whether a fact really is in dispute.
27
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1 The opposing party may submit additional material facts that bear on the issues
2 raised by the movant. The additional facts shall follow the format of the moving
3 party's separate statement and shall continue in sequentially numbered paragraphs.

4 **ii. Supporting Evidence**

5 No party shall submit evidence other than the specific items of evidence or
6 testimony necessary to support or controvert a proposed statement of undisputed fact.
7 For example, entire deposition transcripts, entire sets of interrogatory responses, and
8 documents that do not specifically support or controvert material in the separate
9 statement shall not be filed. The court will not consider such material.

10 Evidence must be submitted either by stipulation or as exhibits to declarations
11 sufficient to authenticate the proffered evidence, and must not be attached to the
12 memorandum. The Court will accept counsel's authentication of deposition
13 transcripts, written discovery responses, and documents received in discovery if the
14 fact that the document was in the opponent's possession is of independent
15 significance. Documentary evidence for which there is no stipulation regarding
16 authenticity must be accompanied by testimony, either by declaration or deposition
17 transcript, of a witness who can establish authenticity.

18 **iii. Objections to Evidence**

19 If a party disputes a fact based on an evidentiary objection, the *ground* of the
20 objection should be stated in the separate statement but not *argued* in that document.
21 Do not submit blanket or boilerplate objections to an opponent's separate statement.
22 Boilerplate objections will be disregarded.

23 **8. Electronic Filing Requirements**

24 **a. Applicable Rules:** Pursuant to Fed. R. Civ. P. 5(d)(3), Local Rule
25 5-4, and General Order 10-07, counsel shall electronically file ("e-file") all filings.

26 **b. Method of Filing:** Items that do not require the Court's signature
27 shall be e-filed in pdf format. Proposed orders shall be e-filed in pdf format as an
28 attachment to the main documents.

1 **c. Emailing Proposed Orders to Chambers:** All proposed orders
2 must be emailed to chambers at AB_chambers@cacd.uscourts.gov in Microsoft
3 Word format. A pdf is not acceptable. If the proposed order is based on a stipulation
4 or an ex parte application, counsel must email both the order and the stipulation or ex
5 parte application. Otherwise, accompanying documents (such as motions) should *not*
6 be emailed to Chambers.

7 **Proposed orders must be on pleading paper and should not contain**
8 **attorney names, addresses, etc., on the caption page, should not contain a footer**
9 **with the document name or other information, and should not contain a**
10 **watermark designation of the firm name, etc., in the margin.**

11 **9. Proposed Protective Orders and Filings Under Seal.** Proposed
12 protective orders pertaining to discovery must be submitted to the assigned Magistrate
13 Judge. Protective orders must not purport to allow any matters to be filed under seal
14 in connection with dispositive motions (including a class certification motion) or trial
15 without further Court order. The existence of a protective order does not alone
16 authorize the filing of pleadings or other documents under seal, in whole or in part.

17 **10. Filings Under Seal.** Local Rule 79-5 governs applications to file under
18 seal. Local Rule 79-5.2.2 explains how to apply to file under seal and how to proceed
19 if leave is granted. Parties must comply with all sections of Local Rule 79-5.

20 There is a strong presumption of access in civil cases. *Foltz v. State Farm Mut.*
21 *Auto. Ins. Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003). For each document or other type
22 of information a party seeks to file under seal, the party must identify and discuss the
23 factual and/or legal justification that establishes “good cause” or “compelling reasons”
24 for the matter should be protected. *Kamakana v. City and County of Honolulu*, 447
25 F.3d 1172, 1179-80 (9th Cir. 2006).

26 Documents that are not confidential or privileged in their entirety should not be
27 filed under seal if the confidential portions can be redacted and filed separately with a
28 reasonable amount of effort. The parties should file a complete version of the

1 documents under seal, and a redacted version for public viewing, omitting only the
2 portions that the Court has ordered may be filed under seal.

3 Sealing must be justified for *each individual item*; blanket claims of
4 confidentiality will result in the application to seal being denied. Counsel is strongly
5 encouraged to consider carefully whether sealing or redaction is required for a given
6 piece of evidence or argument. An application to seal that includes clearly meritless
7 requests to seal or redact documents may be denied in its entirety. The parties must
8 also meet and confer before filing an application to seal.

9 **11. Proposed Orders.** A party filing a motion or seeking the determination
10 of any matter shall file a Proposed Order setting forth the relief or action sought and a
11 brief statement of the rationale for the decision with appropriate citations.

12 **12. Mandatory Chambers Copies:** The parties must provide one (1)
13 chambers copy of the following documents: (i) initial pleadings (complaints,
14 counterclaims, cross-claims); (ii) Joint Rule 16(b)/26(f) Reports with Schedule of
15 Pretrial and Trial Dates Worksheet; (iii) motion papers (motions, oppositions, replies,
16 non-oppositions, and any document relating to such); (iv) trial documents (joint
17 statement of the case, proposed voir dire, jury instructions, verdict form, joint exhibit
18 list, joint witness list, and any disputes relating to such); (v) ex parte applications for
19 a temporary restraining order; and (vi) presentation materials for patent cases.

20 Chambers copies must be delivered to Judge Birotte's chambers copy box
21 outside of the Clerk's Office on the fourth floor of the courthouse no later than 12:00
22 p.m. (noon) the following business day, except TRO applications, which must be
23 delivered the same day they are filed.

24 "Mandatory chambers copies must be printed from CM/ECF, and **must**
25 **include:** (1) **the CM/ECF-generated header** (consisting of the case number,
26 document control number, date of filing, page number, etc.) at the top of each page;
27 and (2) **the NEF** [notice of electronic filing] (see L.R. 5-3.2.1) as the last page of the
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1 document.” Local Rule 5-4.5 (emphasis added). Chambers copies need not be blue-
2 backed. For security reasons, do not leave chambers copies in envelopes or folders.

3 **13. Telephonic Hearings.** The Court strongly prefers counsel to appear in
4 person for motion hearings and pretrial and settlement conferences. The Court seldom
5 permits telephonic appearances. If exceptional circumstances exist, counsel may file
6 an application to appear telephonically detailing such circumstance.

7 **14. Ex Parte Applications.** The Court considers ex parte applications
8 on the papers and does not usually set these matters for hearing. If a hearing is
9 necessary, the parties will be notified. Ex parte applications are solely for
10 extraordinary relief and should be used with discretion. Sanctions may be imposed for
11 misuse of ex parte applications. *See Mission Power Engineering Co. v. Continental*
12 *Casualty Co.*, 883 F. Supp. 488 (C.D. Cal. 1995).

13 Any party filing an ex parte application must comply with Local Rule 7-19.
14 The moving party must also serve the opposing party by email, fax, or personal
15 service, and notify that party that opposing papers must be filed no later than 24 hours
16 (one court day) following such service. If that party does not intend to oppose an ex
17 parte application, he or she must inform the CRD at (213) 894-2833.

18 **15. Injunctions and Restraining Orders.** Parties seeking preliminary or
19 emergency injunctive relief must comply with Fed. R. Civ. P. 65 and Local Rule 65.
20 Applications for a Temporary Restraining Order (“TRO”) are also governed by Local
21 Rule 7-19, which applies to ex parte applications. Thus, oppositions to Applications
22 for a TRO must be filed within 24 hours following service of the Application. The
23 Court will not rule on any Application for a TRO for at least twenty-four hours after
24 the party subject to the requested order has been served, unless notice is excused as
25 per Fed. R. Civ. P. 65(b), or unless the interests of justice so require. The parties must
26 provide chambers copies of TRO-related documents on the same day they are filed.

27 **16. Continuances.** While cases should proceed to a timely resolution, it is
28 sometimes necessary to change established dates. Also, professional courtesy

1 dictates that parties work cooperatively to resolve calendar conflicts and especially to
2 avoid motion work simply to adjust dates. **Parties must therefore attempt to**
3 **stipulate regarding date changes.** However, a stipulation to continue any matter
4 must be supported by good cause, including a declaration explaining the grounds for
5 the request. Any Stipulation must also include a Proposed Order. Stipulations do not
6 become effective unless and until this Court so orders.

7 **17. Communications with Chambers.** Counsel *must not* attempt to contact
8 the Court or Chambers staff by email, telephone, or by any other ex parte means.
9 Counsel *may*, for appropriate matters only, contact the CRD via Chambers email at
10 AB_chambers@cacd.uscourts.gov or by telephone (213)-894-2833. Counsel must not
11 contact the CRD regarding the status of any matter before the Court. Counsel must
12 include on all papers their email address, telephone number, and fax number to
13 facilitate communication with the CRD.

14 **18. Order Setting Scheduling Conference.** Pursuant to Fed. R. Civ. P.
15 16(b) and 26(f), the Court will issue an Order setting a Scheduling Conference. The
16 parties must strictly comply with Fed. R. Civ. P. 16 and 26, and Local Rule 26. The
17 parties must propose a trial date that is within 18 months of the filing of the complaint.

18 **19. Settlement Conference / Alternative Dispute Resolution (ADR).** As
19 stated in Local Rule 16-15, the parties in every case must participate in a Settlement
20 Conference or Alternative Dispute Resolution (“ADR”) procedure. **The Court will**
21 **not hold a final pretrial conference or convene any trial unless and until all**
22 **parties, including the principals of all corporate parties, have completed ADR.**

23 This Court participates in the Court-Directed ADR Program whereby the Court
24 refers the parties to the magistrate judge, the Court Mediation Panel, or to private
25 mediation. *See* General Order 11-10, §5.1. If a Notice to Parties of Court-Directed
26 ADR Program (ADR-08) has been filed in this case, counsel must furnish and discuss
27 it with their clients in preparation for the Fed. R. Civ. P. 26(f) conference. In their
28 Joint Rule 26(f) Report, counsel should indicate their preferred ADR procedure. The

1 Court will refer the case to a procedure at the initial scheduling conference. More
2 information about the Court's ADR Program, the Mediation Panel, and mediator
3 profiles is available on the Court's website.

4 **20. Standing Orders and Templates Available on the Court's Webpage.**

5 The Court's Standing Order, Order Re: Jury/Court Trial, and templates for the
6 Proposed Final Pretrial Conference Order and certain trial filings are available on
7 Judge Birotte's webpage. If the Court has provided a template for any filing, the
8 parties must follow it.

9 **21. Notice of this Order.** Counsel for plaintiff (or plaintiff, if appearing pro
10 se) shall immediately serve this Order on all parties, including any new parties to the
11 action. If this case came to the Court by a Notice of Removal, the removing
12 defendant(s) shall serve this Order on all other parties.

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14 **IT IS SO ORDERED.**

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16 Dated:

17 HONORABLE ANDRÉ BIROTTE JR.
18 UNITED STATES DISTRICT COURT JUDGE
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