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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

MALIBU MEDIA, LLC, A	)	Case No. EDCV 12-01550 VAP (SPx)
CALIFORNIA LIMITED LIABILITY	)	
COMPANY,	)	STANDING ORDER
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
DAVID HICKS, AN INDIVIDUAL,	)	
	)	
Defendant.	)	
_____	)	

**READ THIS ORDER CAREFULLY. IT CONTROLS THIS CASE AND DIFFERS IN SOME RESPECTS FROM THE LOCAL RULES.**

This action has been assigned to the calendar of Judge Virginia A. Phillips.

The responsibility for the progress of litigation in the Federal Courts falls not only upon the attorneys in the action, but upon the Court as well. To secure the just, speedy, and inexpensive determination of every action, (Fed. R. Civ. P. 1), all counsel are hereby ordered to become familiar with the Federal Rules of Civil Procedure and the Local Rules of the Central District of California.\*

1 The Court further orders as follows:

2

3 **1. Service of the Complaint.** The Plaintiff shall serve the  
4 Complaint promptly in accordance with Fed. R. Civ. P. 4 and file  
5 the proofs of service pursuant to Local Rule 5-3.

6

7 **2. Proposed Orders.** Each party filing or opposing a motion  
8 or seeking the determination of any matter shall serve and file a  
9 proposed order which sets forth the relief or action sought and a  
10 brief statement of the rationale for the decision, including  
11 citation of authorities, that the party requests the Court to  
12 adopt.

13

14 **3. Presence of Lead Counsel.** All lead trial counsel must  
15 attend any scheduling and pretrial conferences set by the Court.  
16 Failure of lead trial counsel to appear for those proceedings is a  
17 basis for sanctions.

18

19 **4. Motions.** Motions shall be filed and set for hearing in  
20 accordance with Local Rule 6-1. Motions will be heard on Mondays  
21 commencing at 2:00 p.m. If Monday is a national holiday, this  
22 Court does not hear motions on the succeeding Tuesday. Any motion  
23 noticed for a holiday shall automatically be set to the next Monday  
24 without further notice to the parties. Any opposition or reply  
25 papers due on a holiday are due the preceding Friday, not the  
26 following Tuesday. Memoranda of Points and Authorities in support  
27 of or in opposition to motions shall not exceed 25 pages. Replies  
28 shall not exceed 12 pages. Only in rare instances, and for good

1 cause shown, will the Court agree to extend these page limitations.  
2 When citing to legal databases, wherever possible cite to Westlaw  
3 rather than Lexis.

4 Unless clearly justified under the circumstances of the case,  
5 "motions to dismiss or in the alternative for summary adjudication"  
6 are discouraged. These composite motions tend to blur the  
7 legitimate distinction[s] between the two motions, which have  
8 different purposes. Frequently, the composite motions introduce  
9 evidence that is extrinsic to the pleadings. On the one hand, such  
10 evidence is improper for consideration in a Fed. R. Civ. P.  
11 12(b)(6) motion, while on the other hand, treatment of the motion  
12 as a Rule 56 motion frequently results in reasonable invocation of  
13 Rule 56(f) by the non-moving party.

14 Moreover, Rule 12(b)(6) motions are discouraged unless counsel  
15 has a good faith belief that such motion will likely result in  
16 dismissal, without leave to amend, of all or at least some of the  
17 claims under applicable law.

18 **Motions for Summary Judgment or Partial Summary Judgment:** No  
19 party may file more than one motion pursuant to Fed. R. Civ. P. 56  
20 regardless of whether such motion is denominated as a motion for  
21 summary judgment or summary adjudication. Parties offering  
22 evidence in support of, or in opposition to, a Rule 56 motion must  
23 cite to specific page and line numbers in depositions and paragraph  
24 numbers in affidavits. Furthermore, such evidence must be  
25 authenticated properly. The Court directs the parties to become  
26 familiar with Orr v. Bank of America, NT & SA, 285 F.3d 764 (9th  
27 Cir. 2002).

28

1 The moving party's brief shall also be accompanied by an  
 2 statement of undisputed facts ("SUF"). The SUF shall be presented  
 3 in a table format and include the following columns:

- 4 a. The first column shall contain the number of the  
 5 fact alleged to be undisputed.
- 6 b. The second column shall contain a plain statement of  
 7 the fact. **Facts shall not be compound.** If, for  
 8 instance, the required response is that the fact is  
 9 disputed in part, the fact is compound. Further,  
 10 neither legal arguments nor conclusions constitute  
 11 facts.
- 12 c. The third column shall contain a citation to  
 13 admissible evidence the party believes supports the  
 14 proffered fact.

15 For example:

16 Pl.'s SUF No.	Fact	Supporting Evidence
17 1.	Plaintiff was driving her 18 car when she went through 19 the intersection.	Decl. of Plaintiff ¶ 2.
20 2.	The light was green when 21 Plaintiff went through the 22 intersection.	Decl. of Plaintiff ¶ 4.
23 3.	Plaintiff was driving at 35 24 miles per hour when she traveled through the intersection.	Decl. of Plaintiff ¶ 7; Decl. of Plaintiff's Expert ¶ 14.
. . .	. . .	. . .

25 The party opposing the summary judgment motion shall include  
 26 with its opposition a statement of genuine issues that includes the  
 27 moving party's table; but the opposing party shall add a fourth  
 28 column to the moving table identifying those facts that are in

1 dispute, briefly explaining the dispute, and citing the evidence  
 2 supporting the dispute. The opposing party shall not set forth  
 3 legal objections in the statement of genuine issues. For example:

4 Pl.'s SUF No.	Fact	Supporting Evidence	Def.'s Response
5 1.	Plaintiff was driving her car when she went through the intersection.	Decl. of Plaintiff ¶ 2.	Undisputed.
6 2.	The light was green when Plaintiff went through the intersection.	Decl. of Plaintiff ¶ 4.	Disputed. The light was red when Plaintiff traveled through the intersection. (Decl. of Defendant ¶ 6.)
7 3.	Plaintiff was driving at 35 miles per hour when she traveled through the intersection.	Decl. of Plaintiff ¶ 7; Dec. of Plaintiff's Expert ¶ 14.	Disputed. Plaintiff was driving 52 miles per hour when she went through the intersection. (Decl. of Defendant's Expert ¶ 9.)
8 . . .	. . .	. . .	. . .

9 If a party fails to dispute a fact properly by offering  
 10 evidence that does not contradict the proffered fact, the Court  
 11 will deem the fact undisputed for purposes of the motion. See Fed.  
 12 R. Civ. P. 56(e)(2), L.R. 56-3.

13 If the party opposing the summary judgment motion wishes to  
 14 include its own set of undisputed facts, it may include them in a  
 15 second table at the end of its statement of genuine issues. The  
 16 opposing party's undisputed facts shall be set forth in the same  
 17 manner as the moving party's SUF. For example:

Def.'s SUF No.	Fact	Supporting Evidence
1.	The tires on Plaintiff's car had only 1 millimeter of tread remaining at the time of the accident.	Decl. of Mechanic ¶ 5.
. . .	. . .	. . .

If either party fails to provide a pincite to the supporting evidence, the Court will deem the proffered fact (or dispute) unsupported. See generally Christian Legal Soc. v. Wu, 626 F.3d 483, 488 (9th Cir. 2010) ("Judges are not like pigs, hunting for truffles buried in briefs." (quoting Greenwood v. FAA, 28 F.3d 971, 977 (9th Cir. 1994) (quoting United States v. Dunkel, 927 F.2d 955, 956 (7th Cir. 1991) (per curiam)) (alteration omitted))).

Additionally, parties shall file any legal objections to the other party's proffered evidence under separate cover.

**5. Withdrawal or Non-Opposition of Motions: In the event that the parties are able to resolve a pending motion, they must notify the Court approximately one week before the hearing date.** Sanctions may issue for failure to comply with this requirement, or the broader requirement in Local Rule 7-16 that any party who intends either to withdraw a motion, to not oppose a motion, or to seek a continuance of the hearing date for a motion, **must notify the court by noon on the Tuesday preceding the hearing date.**

1           **6. Electronic filing.** As of January 1, 2008, the United  
2 States District Court for the Central District of California  
3 implemented mandatory electronic filing ("e-filing") of documents  
4 in all new and pending civil cases. Information about the Court's  
5 Electronic Case Filing system, is available on the Court's website  
6 at [www.cacd.uscourts.gov/cmecf](http://www.cacd.uscourts.gov/cmecf).

7           The "e-filing" of all documents required to be "e-filed" in  
8 this matter pursuant to General Order No. 10-07 and Local Rule 5-4  
9 shall be completed by **4:00 p.m. on the date due**. Any documents  
10 "e-filed" after 4:00 p.m. on the date due will be considered  
11 **untimely**. Any documents that fail to comply with Local Rule 5-4,  
12 and particularly Local Rule 5-4.3.1 may be rejected.

13  
14           **7. Mandatory chambers copies. Counsel shall provide one**  
15 **conformed chambers copy of any "e-filed" document.** Such chambers  
16 copies shall be delivered to the "Courtesy Box," located outside of  
17 Courtroom 2 on the 2nd floor at the United States District Court,  
18 3470 Twelfth Street, Riverside, California 92501, no later than  
19 5:00 p.m. on the day following "e-filing." All chambers copies  
20 shall comply fully with the document formatting requirements of  
21 Local Rule 11-3, including the "backing" and "tabbing" requirements  
22 of Local Rules 11-3.5 and 11-5.3, respectively. If the filing  
23 party and their counsel fail to deliver a mandatory chambers copy  
24 in full compliance with this Order and Local Rule 11-3, the Court  
25 may, on its own motion, reschedule any related hearing, as well as  
26 imposing sanctions.

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1           **8. Discovery.** All discovery matters have been referred to a  
2 United States Magistrate Judge (see initial designation following  
3 the case number) to hear all discovery disputes. The words  
4 "DISCOVERY MATTER" shall appear in the caption of all documents  
5 relating to discovery to insure proper routing. Counsel are  
6 directed to contact the Magistrate Judge Courtroom Deputy Clerk for  
7 the assigned Magistrate Judge to schedule matters for hearing.

8           The decision of the Magistrate Judge shall be final, subject  
9 to modification by the District Court only where it has been shown  
10 that the Magistrate Judge's order is clearly erroneous or contrary  
11 to law.

12           Any party may file and serve a motion for review and  
13 reconsideration before this court. The party seeking review must  
14 do so within ten (10) days of service upon the party of a written  
15 ruling or within ten (10) days of an oral ruling that the  
16 Magistrate Judge states will not be followed by a written ruling.  
17 The motion must specify which portions of the text are clearly  
18 erroneous or contrary to law and the claim must be supported by  
19 points and authorities. A copy of the moving papers and responses  
20 shall be delivered to the Magistrate Judge's clerk for review upon  
21 the filing of the required documents.

22  
23           **9. Ex Parte Applications.** *Ex parte* applications are  
24 considered on the papers and are not usually set for hearing.  
25 Counsel are advised that this Court allows *ex parte* applications  
26 solely for extraordinary relief -- sanctions may be imposed for  
27 misuse of *ex parte* applications. See In re Intermagnetics Am.,  
28 Inc., 101 B.R. 191 (Bankr. C.D. Cal. 1989). Counsel also should



1 become familiar with Mission Power Engineering Co. v. Continental  
2 Casualty Co., 883 F. Supp. 488 (C.D. Cal. 1995), regarding *ex parte*  
3 applications.

4 Counsel's attention is directed to Local Rule 7-19. The  
5 moving party shall serve the opposing party by facsimile  
6 transmission and shall notify the opposition that opposing papers  
7 must be filed not later than twenty-four hours following such  
8 facsimile service. The moving party's declaration in support of an  
9 *ex parte* application shall show compliance with Local Rule 7-19 and  
10 this Order, failing which the application shall be DENIED. If  
11 counsel does not intend to oppose an *ex parte* application, they  
12 must so inform the Courtroom Deputy Clerk, (951) 328-4461. As with  
13 all motion papers, counsel must deliver a conformed courtesy copy  
14 of the papers to the "Courtesy Box", located outside of Courtroom 2  
15 on the 2nd floor at United States District Court, 3470 Twelfth  
16 Street, Riverside, California 92501. Counsel will be notified by  
17 the Courtroom Deputy Clerk of the Court's ruling or of a hearing  
18 time and date should the Court determine that a hearing is  
19 necessary.

20

21 **10. Stipulations.** Stipulations extending scheduling dates  
22 set by this Court are not effective unless approved by the Court.  
23 Counsel requesting a continuance must submit a stipulation, with a  
24 detailed declaration of the basis for the requested continuance or  
25 extension of time, and a proposed order. Continuances will be  
26 granted only upon a showing of good cause, focusing on the  
27 diligence of the party seeking the continuance and any prejudice  
28 that may result if the continuance is denied. Any continuances

1 that are requested without an accompanying declaration will be  
2 rejected without notice to the parties. The Court sets **firm** trial  
3 dates and will not change them without a showing of good cause.

4  
5 **11. Applications to File Under Seal.** Parties are reminded  
6 that court proceedings are presumptively public, and no document  
7 shall be filed under seal without request for a court order that is  
8 narrowly tailored to cover only the document, the particular  
9 portion of the document, or category of documents for which good  
10 cause exists for filing under seal. To that end, if a party wishes  
11 to file a document under seal, that party shall first file a  
12 written request for a sealing order setting forth the good cause  
13 and accompanied by a proposed order that is narrowly tailored as  
14 specified above.

15 If the sole ground for the sealing order is that the opposing  
16 party (or non-party) has designated the document as confidential,  
17 the opposing party (or non-party) shall file a declaration  
18 establishing good cause for the sealing along with a proposed  
19 order, or shall withdraw the designation. The declaration shall be  
20 filed within five days of service on the opposing party (or non-  
21 party) of the request for a sealing order. If the declaration is  
22 not filed as required, the Court may order that the document be  
23 filed in the public record.

24 **Use of Sealed Documents in Motion Papers:** The Court cautions  
25 parties that documents designated as confidential that are attached  
26 as exhibits to case-dispositive motions, or redacted portions of  
27 case-dispositive briefs that contain confidential information, must  
28 meet the high "compelling reasons" threshold. See Kamakana v. City

1 of Honolulu, 447 F.3d 1172 (9th Cir. 2006). A good cause showing,  
2 without more, will not satisfy a compelling reasons test, but will  
3 only suffice to maintain the confidentiality of documents attached  
4 to *non-dispositive* motions. Documents designated as confidential  
5 in conjunction with case-dispositive motions or briefs that do not  
6 satisfy the compelling reasons test may accordingly be re-  
7 designated as public information upon proper request. See Foltz v.  
8 State Farm Mut. Auto. Ins. Co., 331 F.3d 1122 (9th Cir. 2003).

9 **Use of Sealed or Confidential Documents at Trial:**

10 Notwithstanding any provision of a protective order to the  
11 contrary, any document, whether previously designated confidential  
12 or previously sealed, will be unsealed and will lose its  
13 confidential status if offered as an exhibit at trial, absent a  
14 showing of the "most compelling" reasons. See Manual for Complex  
15 Litigation § 21.432; Foltz, 331 F.3d at 1135-36. Any party  
16 believing that a document, portions thereof, or witness testimony  
17 should remain confidential or sealed during trial must request in  
18 advance of trial that the court take extraordinary measures, such  
19 as closing the courtroom to the public or sealing the trial  
20 transcript, to protect the confidentiality of that information.  
21 The request must be made in writing and filed no later than the  
22 date on which pretrial papers are due.

23 If previously sealed documents are ordered unsealed for use at  
24 trial, counsel for the party offering the document as evidence  
25 shall, within two business days of the conclusion of the trial,  
26 identify which entries on the docket represent the exhibits  
27 actually received. Counsel are required to cooperate with the  
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1 deputy clerk in order to complete the unsealing process in cases  
2 involving voluminous sealed documents.

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5 **12. Removed Actions.** Any answers filed in state court must  
6 be re-filed in this Court (separately) as a supplement to the  
7 petition. Any pending motions must be re-noticed in accordance  
8 with Local Rule 6-1.

9

10 **13. Communications with Chambers.** Counsel shall not attempt  
11 to contact the Court or its staff by telephone or by any other ex  
12 parte means. Counsel must list their facsimile transmission  
13 numbers along with their telephone numbers on their papers.

14

15 **14. Notice of this Order.** Counsel for plaintiff, or  
16 plaintiff, if appearing on his or her own behalf, shall immediately  
17 serve this Order on all parties, including any new parties to the  
18 action. If this case came to the Court by noticed removal, the  
19 removing defendant shall serve this Order on all other parties.

20

21 **15. Internet Site.** Counsel are directed to review the  
22 Central District's website for additional information. The address  
23 is "<http://www.cacd.uscourts.gov>".

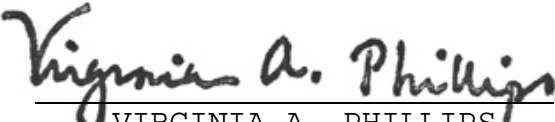
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26 Dated: September 13, 2012

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VIRGINIA A. PHILLIPS  
United States District Judge

1 \* Copies of the Local Rules are available on our website at  
2 "http://www.cacd.uscourts.gov" or they may be purchased from one of  
the following:

3 Los Angeles Daily Journal  
4 915 East 1st Street  
Los Angeles, California 90012

5 West Publishing Company  
6 610 Opperman Drive  
Post Office Box 64526  
7 St. Paul, Minnesota 55164-0526

8 Metropolitan News  
9 210 South Spring Street  
Los Angeles, California 90012

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