

1 **Priority**

2 **Send**

3 **Enter**

4 **Closed**

5 **JS-5/JS-6**

6 **JS-2/JS-3**

7 **Scan Only**

FILED  
CLERK, U.S. DISTRICT COURT  
APR 14 2005  
CENTRAL DISTRICT OF CALIFORNIA  
BY [Signature] DEPUTY

SCANNED

8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA

10 *MGA Entertainment, Inc.*

Case No. *CV 05-2727-CBM(RZX)*

11 Plaintiff(s),

**STANDING ORDER**

12 v.

13  
14 *Mattel, Inc. et al*  
15 Defendant(s).

16  
17 **READ THIS ORDER CAREFULLY. IT CONTROLS THE PROCEDURES**  
18 **USED IN THIS CASE**

19 This action has been assigned to the calendar of the Honorable Consuelo B.  
20 Marshall. Both the Court and the attorneys bear responsibility for the progress of  
21 litigation in the Federal Courts. To secure the just, speedy, and inexpensive  
22 determination of every action, Fed. R. Civ. P. 1, all counsel are ordered to  
23 familiarize themselves with the Federal Rules of Civil Procedure and the Local  
24 Rules of the Central District of California and comply with these rules. Copies  
25 the Local Rules are available on our website at <http://www.cacd.uscourts.gov>.

26  
27 <sup>1</sup>Copies of the Local Rules may also be purchased from one of the following:  
28 Los Angeles Daily Journal West Group Metropolitan News  
915 East 1st Street 610 Opperman Drive 210 South Spring Street  
Los Angeles, CA 90012 P.O. Box 64526 Los Angeles, CA 90012  
St. Paul, MN 55164-0526

DOCKETED ON 05/18/05  
APR 18 2005  
BY *BSG* 010

3

1 **NONCOMPLIANCE MAY LEAD TO THE IMPOSITION OF SANCTIONS**  
2 **WHICH MAY INCLUDE THE STRIKING OF PLEADINGS AND ENTRY**  
3 **OF JUDGMENT OR DISMISSAL OF THE ACTION.**

4  
5 **IT IS FURTHER ORDERED:**

6 **1. Service of the Complaint:** The Plaintiff(s) shall promptly cause the  
7 Complaint to be served in accordance with Fed. R. Civ. P. 4 and file the proofs of  
8 service pursuant to Local Rule 5-3. **THE FAILURE TO FILE THE PROOFS**  
9 **OF SERVICE WILL RESULT IN THE ACTION BEING DISMISSED**  
10 **PURSUANT TO LOCAL RULE 41.**

11 **2. Removed Actions:** All documents filed in state court must be attached  
12 to the Notice of Removal. Any motions pending at the time of removal must be  
13 re-noticed for hearing as required by Local Rule 7.

14 **3. Presence of Lead Counsel:** Lead trial counsel shall attend any  
15 proceeding before this Court, including all status and settlement conferences.

16 **4. Rule 26(f) Meeting of Counsel:** Counsel for the parties shall meet  
17 personally pursuant to FRCP 26(f) and applicable Local Rules in anticipation of  
18 the court-ordered scheduling conference. FRCP 16(b).

19 **5. Joint Report of Rule 26(f) Meeting:** No later than fifteen (15) court  
20 days before the Scheduling Conference, counsel shall file a Joint Report of Rule  
21 26(f) Meeting. A Joint Report which is not timely filed or does not conform with  
22 this Order, FRCP 26(f), and applicable Local Rules will interfere with preparation  
23 by the Court and its staff, and may result in the assessment of sanctions.

24 The Joint Rule 26(f) Report shall address the matters set forth in FRCP  
25 26(f) (some of which are enumerated below), and shall also contain the following:

- 26 (a) A brief statement by each party, not to exceed one (1) page, setting  
27 forth that party's factual summary of the case, including the basis for  
28
- 

SCANNED

any claims, counterclaims, or defenses.

- (b) The basis for the Court's subject-matter jurisdiction.
- (c) A brief description of the key legal issues.
- (d) The realistic range of probable damages.
- (e) The likelihood of appearance of additional parties.
- (f) Whether all or part of the procedures of the Manual for Complex Litigation should be utilized.
- (g) Separate proposed discovery cut-off dates for fact and expert discovery. Note: this means the final day for completion of discovery, including resolution of all discovery motions.

Note: The expert discovery cutoff date issued by the court controls the disclosure of expert testimony pursuant to FRCP 26(a)(2) and shall not change unless ordered by the Court regardless of subsequent continuances of discovery or trial dates.

- (h) Which motions (other than discovery motions) are contemplated by the parties.
- (i) Prospects of settlement based on counsel's discussion at the Rule 26(f) meeting and any other communications.
- (j) Whether the trial will be a court or jury trial.
- (k) The estimated length of trial.
- (l) The name of the attorney(s) who will try the case.
- (m) Prospects of counsel exercising their right, under 28 U.S.C. §636, to consent to the designation of a Magistrate Judge to conduct all proceedings (including trial) and final disposition, pursuant to General Order 194.<sup>2</sup>

**6. Mandatory Settlement Procedure:** In conformity with the Local Rules, counsel shall file the settlement procedure selection by the date given by the Court at the time of the Scheduling Conference. Available alternatives for consideration, not to the exclusion of others, include:

- (1) a settlement conference before the magistrate judge assigned to the

---

<sup>2</sup> Counsel should note that they must select from among the panel of available Magistrate Judges, which may not include the Magistrate Judge assigned to this case. Counsel should note that the Magistrate Judge will set his/her own discovery schedule and will be able to give counsel a "date certain" for trial.

SCANNED

1 case; Note: **the Court does not participate in settlement of cases on**  
2 **its own docket.**

- 3 (2) a settlement conference or mediation before an attorney selected from  
4 the Attorney Settlement Panel (list available from the Courtroom  
5 Deputy);
- 6 (3) the employment by the parties of a private judge, mediator or  
7 arbitrator.

8 **7. Discovery:** All discovery matters have been referred to a United States  
9 Magistrate Judge, who will hear all discovery disputes. (The Magistrate Judge's  
10 initials follow the Judge's initials next to the case number.) All pleadings related  
11 to discovery must include the words "DISCOVERY MATTER" in the caption to  
12 ensure proper routing to the assigned Magistrate Judge. Counsel are directed to  
13 contact the Magistrate Judge's Courtroom Deputy Clerk to schedule matters for  
14 hearing. Please do not deliver courtesy copies of these documents to this Court.

15 The decision of the Magistrate Judge shall be final, subject to modification  
16 by the District Court only where it is shown that the Magistrate Judge's Order is  
17 clearly erroneous or contrary to law.

18 Any party may file and serve a motion for review and reconsideration before  
19 this Court. The moving party must file and serve the motion within ten (10) days  
20 of the issuance of a written order or within ten (10) days of an oral ruling that the  
21 Magistrate Judge states will not be followed by a written ruling. The motion must  
22 specify which portions of the ruling are clearly erroneous or contrary to law and  
23 support the contention with points and authorities. Counsel shall deliver a  
24 conformed copy of the moving papers and responses to the Magistrate Judge's  
25 clerk at the time of filing.

26 **8. Under Seal Filings:**

27 Local Rule 79-5.1 states that: "No case or document shall be filed under  
28 seal without prior approval by the Court" and provides the procedure for seeking  
court approval. The parties should note that generally, there is a strong  
presumption in favor of public access to court records, and the Ninth Circuit has

1 recognized the public's general right to inspect court documents. *See Hagestad v.*  
2 *Tagesser*, 49 F.3d 1430, 1434 (9th Cir. 1995) (citing *Nixon v. Warner Comm. Inc.*,  
3 435 U.S. 589, 597 (1978)). The Court has inherent supervisory power over its  
4 own records and files, and access to documents may be denied where the Court  
5 determines that documents may be used for an improper purpose. *Hagestad*, 49  
6 F.3d at 1433-34. However, the presumption of public access may be overcome  
7 only on the basis of a compelling reason supported by articulable facts. *Id.* at  
8 1434; *see also Foltz v. State Farm Automobile Ins. Co.*, 331 F.3d 1122, 1135 (9th  
9 Cir. 2003). The application for a filing under seal shall be accompanied by a  
10 declaration stating the facts which support the sealing of a document. The  
11 declaration must not be based on hypothesis or conjecture, but instead must  
12 provide articulable facts upon which this Court can decide if the document  
13 warrants sealing. *Valley Broadcasting v. United States District Court*, 798 F.2d  
14 1289, 1294 (9th Cir. 1986).

15 The parties should note that an agreed upon protective order or documents  
16 marked "confidential" or "for attorney eyes only" are not alone compelling reason  
17 to overcome the presumption. Any application to request an under seal filing must  
18 cite the authority (other than an agreed upon Protective Order) which would  
19 permit the filing under seal, and shall state why the document is subject to that  
20 authority.

21 Any application for under seal filing shall be submitted sufficiently in  
22 advance such that the Court's consideration of the application shall not affect a  
23 scheduled hearing date.

24 **9. Motions:**

25 a. Time for Filing and Hearing Motions: Motions shall be filed in  
26 accordance with Local Rule 7. This Court hears motions on **Mondays,**  
27 **commencing at 10:00 a.m.** The Court may not hear motions on every Monday  
28 and prior to filing a Motion, the next available motion date can be obtained from

SCANNED

1 the Courtroom Deputy or the Filing Window. **No supplemental brief shall be**  
2 **filed without prior leave of Court.** Adherence to the timing requirements of  
3 Local Rule 7 is mandatory for chambers' preparation of motion matters.

4 **b. Pre-filing Requirement:** Counsel shall comply with Local Rules  
5 affecting motion practice in the Central District. Among other things, Local Rule  
6 7-3 requires counsel to engage in a pre-filing conference "to discuss thoroughly,  
7 preferably in person, the substance of the contemplated motion and any potential  
8 resolution." Counsel should discuss the issues sufficiently that, if a motion is still  
9 necessary, the briefing may be directed to those substantive issues requiring  
10 resolution by the Court. Counsel should resolve minor procedural or other non-  
11 substantive matters during the conference.

12 **c. Length and Format of Motion Papers: Memoranda of Points**  
13 **and Authorities in support of or in opposition to motions shall not exceed 25**  
14 **pages. Reply memoranda shall not exceed 12 pages.** Only in rare instances,  
15 and for good cause shown, will the Court grant an application to extend these page  
16 limitations.

17 **Typeface shall comply with Local Rule 11-3.1.1.**

18 **Note: If Times Roman font is used, the size must be no less than 14; if**  
19 **Courier is used, the size must be no less than 12.** Footnotes shall be in typeface  
20 no less than one size smaller than text size and shall be used sparingly.

21 **Filings which do not conform to the Local Rules and this Order will not**  
22 **be considered.**

23 **d. Courtesy Copies:** Counsel shall deliver a conformed courtesy  
24 copy of all **reply** papers in motion matters to the courtesy box on the wall outside  
25 the entrance to Judge Marshall's chambers on the second level of the U.S.  
26 Courthouse, 312 North Spring Street, **by 4:00 p.m. on the date due.** Please do  
27 not provide courtesy copies of moving or opposition papers.

28 **e. Motions for Summary Judgment:** Before filing a motion for

SCANNED

1 summary judgment, counsel are strongly encouraged to review Chapter 14 of  
2 Schwarzer, Tashima & Wagstaffe, California Practice Guide: Federal Civil  
3 Procedure Before Trial (1998). To assist the Court, the moving party shall submit  
4 the required Statement of Uncontroverted Facts and Conclusions of Law as set  
5 forth in Form 14:C (**copy attached as Exhibit 1**). The opposing party shall  
6 submit the required Statement of Genuine Issues as set forth in Form 14:D (**copy**  
7 **attached as Exhibit 2**), responding first to each of the moving party's alleged  
8 uncontroverted facts, then listing any material facts in dispute, and citing to  
9 supporting evidence. **Note: Separate statements that fail to comply with the**  
10 **above format will not be considered.**

11 **10. Proposed Orders:** Each party filing or opposing a motion or seeking  
12 the determination of any matter shall serve and lodge a Proposed Order setting  
13 forth the relief or action sought and a brief statement of the rationale for the  
14 decision with appropriate citations. If the Proposed Order exceeds two pages, the  
15 proposing party shall also submit the document on a 3½-inch diskette compatible  
16 with WordPerfect 11.0.

17 **11. Proposed Jury Instructions:** Each party may submit proposed  
18 instructions in cases to be tried to a jury, in compliance with FRCP 51 and Local  
19 Rule 51. The proposed instructions shall also contain a table of contents  
20 identifying the proposed instruction by number and title or principle of law for  
21 which it is proposed. On the same page of each proposed instruction, the party  
22 shall provide the legal citation(s) in support of the Court instructing the jury as  
23 requested. Parties must also submit, within the same time as the proposed jury  
24 instructions, a proposed special verdict form, if parties are requesting a special  
25 verdict form be used.

26 **12. Motions in Limine:** Motions seeking to exclude evidence at trial shall  
27 identify the specific evidence of which exclusion is sought. General references to  
28 types of evidence or all evidence that does not comply with discovery or other

SCANNED

1 requirements is not sufficient to permit the Court to rule on such a Motion.

2       **13. Telephonic Hearings:** The Court may conduct status conferences by  
3 telephone if any party outside the district so requests, and all involved parties  
4 consent. The attorney requesting the telephonic hearing shall contact the  
5 Courtroom Deputy Clerk, Joseph Levario, (213) 894-5288, at least one week prior  
6 to the date scheduled for the motion or conference in order to make the necessary  
7 arrangements for the call.

8       **14. Ex Parte Applications:** Counsel are reminded that ex parte  
9 applications are solely for extraordinary relief. *See, e.g., Mission Power*  
10 *Engineering Co. v. Continental Casualty Co.*, 883 F.Supp. 488 (C.D. Cal. 1995);  
11 *In re Intermagnetics America, Inc.*, 101 B.R. 191 (C.D. Cal. 1989). Applications  
12 which fail to conform with Local Rule 7-19 will not be considered. The Court  
13 considers ex parte applications on the papers and usually does not set these matters  
14 for hearing. In addition to the requirements of Local Rule 7-19, the moving party  
15 shall serve the opposing party by facsimile transmission and shall notify the  
16 opposition that opposing papers must be filed no later than twenty-four hours  
17 following such facsimile service. Counsel shall deliver a conformed courtesy  
18 copy of moving, opposition, or notice of non-opposition papers to the courtesy  
19 box outside the entrance to Judge Marshall's chambers in the U.S. Courthouse,  
20 312 North Spring Street. The Courtroom Deputy Clerk will notify counsel of the  
21 Court's ruling or a hearing date and time, if the Court determines a hearing is  
22 necessary.

23       **15. Continuances:**

24       **a. Continuation of Hearing Date Only:** If parties seek a  
25 continuance for a hearing date for which all briefing has been submitted to the  
26 Court, counsel requesting a continuance must lodge – prior to the date for which  
27 the hearing is scheduled – a Stipulation and Proposed Order including a detailed  
28 declaration of the grounds for the requested continuance. *See* Local Rules 7-11;



1 16-8.

2           **b. Continuance of Briefing Schedule and Hearing Date:** If  
3 parties seek to continue both the hearing date and the briefing schedule required  
4 by the Local Rules, then a Stipulation and Proposed Order must be lodged prior to  
5 the date that the papers are due based upon the current hearing date. The  
6 Stipulation must contain a detailed statement regarding the grounds for the  
7 requested continuance of time for filing and hearing.

8           **c. Continuance of Case Deadlines:** If the parties seek to  
9 continue deadlines scheduled by the Court in this case, then counsel requesting a  
10 continuance must lodge – prior to the deadline for which a continuance is sought  
11 – a Stipulation and Proposed Order stating the new deadlines and detailing the  
12 grounds for the requested continuance.

13           Any continuance sought by the parties is granted only upon a showing of  
14 good cause, considering the diligence of the party seeking the continuance and any  
15 prejudice that may result if the continuance is denied. Failure to comply with the  
16 Local Rules and this Order will result in rejection of the request.

17           **Proposed stipulations extending any applicable dates do not become**  
18 **effective unless and until signed by the Court.**

19           **16. Communications with Chambers:** Counsel shall not attempt to  
20 contact the Court or its chambers staff by telephone or by any other ex parte  
21 means. Counsel may contact the **Courtroom Deputy, Joseph Levario, at (213)**  
22 **894-5288**, with appropriate inquiries. Counsel shall not contact Mr. Levario with  
23 any inquiries which may be answered by reference to the Local Rules, Federal  
24 Rules, or this Order. To facilitate communication with the Courtroom Deputy,  
25 counsel should list their facsimile transmission numbers in addition to their  
26 telephone numbers on all papers.

27           **17. Notice of this Order:** Counsel for plaintiff shall immediately serve this  
28 Order on all parties, including any new parties to the action. If this case came to

3-2-2011 10:12:12

1 the Court by noticed removal, Defendant shall serve this Order on all other parties.  
2 Enclosed is a Document Imaging Enrollment Form for counsel to complete and  
3 return to the address indicated on the form. Participation in this program  
4 facilitates service of orders, judgments, and other documents.

5 **IT IS SO ORDERED.**

6

7 **Dated:** \_\_\_\_\_

8

  
**CONSUELO B. MARSHALL**  
Chief, United States District Judge

9

10 4/04

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

STATEMENT OF UNCONTROVERTED FACTS  
AND CONCLUSIONS OF LAW  
(Required in California Central District)

SCANNED

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

Attorney for Plaintiff

UNITED STATES DISTRICT COURT  
DISTRICT OF CALIFORNIA

.....	)	CASE NO. ....
Plaintiff,	)	STATEMENT OF UNCONTROVERTED FACTS AND
vs.	)	CONCLUSIONS OF LAW
.....	)	Hearing Date: .....
Defendant.	)	Time: .....
	)	Courtroom: .....

After consideration of the papers in support of and in opposition to plaintiff's motion for summary judgment and the oral argument of counsel, the Court determines that the following facts have been established as,

UNCONTROVERTED FACTS

1. Plaintiff is a citizen of ..... and defendant is a citizen of .....  
[Declaration of Plaintiff, page 1, lines 18-21; Deposition of Defendant, page 5, lines 8-22.]
2. Plaintiff and Defendant entered into a written contract for the construction of a house in ..... County, .....  
[Complaint, page 3, lines 9-11; admitted in Defendant's answer, page 1, lines 3-4.]
3. Plaintiff is a licensed general contractor.

1 [Complaint, page 2, lines 5-6; admitted by Defendant's  
2 failure to deny.]

3 4. Plaintiff has performed all conditions of the contract,  
4 except installation of a security system.

5 [Copy of contract attached as Exhibit "A" to complaint;  
6 admitted in Defendant's answer, page 2, lines 3-4.  
7 Declaration of Plaintiff, page 3, lines 10-22.]

8 5. Installation of the security system was excused by  
9 Defendant's refusal to allow Plaintiff access to the portion of the building  
10 site required for such installation.

11 [Declaration of Plaintiff, page 5, lines 11-28; Defendant's  
12 answer to Interrogatory No. 3]

13 6. Defendant agreed to pay Plaintiff \$160,000 and only \$100,000  
14 has been paid.

15 [Paragraph 2 of contract (see ¶4, above); declaration of  
16 Plaintiff, page 7, lines 6-8; Defendant's response to  
17 Request for Admission No. 6.]

18 Based on the foregoing Uncontroverted Facts, the Court now makes  
19 its,

20 CONCLUSIONS OF LAW

21 1. The Court has jurisdiction of this action, pursuant to 28  
22 U.S.C. §1332.

23 2. Defendant has breached the contract with Plaintiff by  
24 failure to pay according to its terms.

25 3. Plaintiff is owed the sum of \$60,000 by Defendant under the  
26 contract and Plaintiff has been damaged in the said amount by Defendant's  
27 breach.

28 4. Plaintiff is entitled to prejudgment interest on this  
29 liquidated sum at the statutory rate of seven percent (7%) per annum.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

5. Judgment shall be entered in Plaintiff's favor consistent  
herewith.

DATED: .....

United States District Judge

STATEMENT OF GENUINE ISSUES  
IN OPPOSITION TO MOTION FOR SUMMARY JUDGMENT  
(Required in California Central District)

SCANNED

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

.....  
.....  
.....

Attorneys for .....

UNITED STATES DISTRICT COURT  
..... DISTRICT OF CALIFORNIA

.....)	No.: .....
Plaintiff, )	STATEMENT OF GENUINE ISSUES IN
vs. )	OPPOSITION TO MOTION FOR SUMMARY
.....)	JUDGMENT (Central District)
Defendant. )	Date: .....
)	Time: .....
)	Courtroom:.....

(Plaintiff/defendant) ..... submits this statement  
of genuine issues pursuant to Central District of California Local Rule 7.14.2 in  
opposition to the motion for summary judgment herein filed by .....

Facts 1 through ..... below correspond to the facts and supporting  
evidence presented in the Statement of Uncontroverted Facts filed by the moving  
party. These facts are followed by additional material facts and supporting  
evidence showing a genuine issue.

MOVING PARTY'S ALLEGED

RESPONSE TO OPPOSITION

UNCONTROVERTED FACTS

1. [Copy from moving party's  
statement]

1. Plaintiff agrees this is  
undisputed.

/////

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

2. *[Copy from moving party's statement]*

2. Plaintiff denies this is undisputed.  
See Declaration of .....  
....., page 3, lines  
7-20; see also Defendant's answer to  
Plaintiff's Interrogatory No. 21,  
attached to the above declaration.

Opposing party also contends that the following other material facts  
are in dispute: *[set forth issue and evidence]*

DATED: ....., .....

/s/  
*(Attorney's name typed)*

Attorneys for .....