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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

THE AMERICAN AUTOMOBILE  
ASSOCIATION, INC.,

Plaintiff,

v.

DARBA ENTERPRISES INC., DARRIN  
BAGNUOLO, and DOES 1-10,

Defendants.

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No. C 09-00510 SI

**ORDER DENYING DEFENDANTS'  
MOTION FOR RECONSIDERATION**

Defendants have filed a combined motion, which includes both a motion for reconsideration of the Court's April 21, 2009 Order denying defendants' motion to dismiss, and motion to dismiss or transfer based on improper venue. The motion to dismiss or transfer must be re-filed as a separate motion.

The motion for reconsideration is improper because defendants failed to seek leave of this Court before filing it, as required by Civil Local Rule 7-9(a). Had defendants sought leave of Court, it would have been denied because defendants have filed to show:

- (1) That at the time of the motion for leave, a material difference in fact or law exists from that which was presented to the Court before entry of the interlocutory order for which reconsideration is sought; . . . or
- (2) The emergence of new material facts or a change of law occurring after the time of such order; or
- (3) A manifest failure by the Court to consider material facts or dispositive legal arguments which were presented to the Court before such interlocutory order.

*See* Civil Local Rule 7-9(b). Accordingly, defendants' motion for reconsideration is DENIED.

The question of dismissal or transfer based on improper venue will be considered when the

1 motion is re-filed and after briefing is completed.

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3 **IT IS SO ORDERED.**

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5 Dated: May 6, 2009

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SUSAN ILLSTON  
United States District Judge