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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

GROSS BELSKY ALONSO LLP,

No. C 08-04666 SBA

Plaintiff,

ORDER

v.

[Docket Nos. 5 & 8]

HENRY EDELSON, *et al.*,

Defendants.

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On October 8, 2008, defendants removed this diversity breach of contract action from Alameda County Superior Court. *See* Docket No. 1. The matter was assigned to Magistrate Judge Maria-Elena James. *See* Docket No. 3. On October 16 and 17, 2008, defendant filed motions to dismiss this matter or transfer it to the Southern District of New York. *See* Docket Nos. 5 & 8. Defendant then filed motions to amend or correct their prior motions. *See* Docket Nos. 7 & 14. Subsequently, on October 29 and 30, 2008, defendants declined to proceed before Magistrate Judge James. *See* Docket Nos. 16 & 19. On November 17, 2008, this matter was reassigned to this Court. *See* Docket No. 23. On December 2 and 3, 2008 defendants re-noticed their motions. *See* Docket Nos. 25 & 26. At no time have defendants filed a certificate of meeting and conferring nor have they filed proposed orders.

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Paragraph 5 of this Court's Standing Order for Civil Cases expressly states, "**Meet and Confer Requirement**; All parties are required to meet and confer *before* filing any motion with this court, and *to certify* that they have complied with this requirement." (Emphasis added.) This requirement is essential to the parties' representation that there is a dispute which requires the Court's resolution. Until such time as the parties have met and conferred to discuss the issues, it is premature to conclude that there exists a dispute necessitating the Court's intervention. This requirement conserves the limited time and resources of the Court and the parties, by obviating the filing of unnecessary motions. Because the parties have not met and conferred, and because it is still early in this matter's proceedings, the Court DENIES the motions without prejudice, as premature.

1 The parties shall meet and confer in person or by telephone, and if defendants wish to re-file their
2 motions, they may do so.

3 Accordingly, the Court DENIES without prejudice (1) defendant's Motion to Dismiss
4 Plaintiff's Amended Complaint FRCP 12(b)(6), FRCP 12 (b)(7); or in the Alternative Motion to
5 Transfer this Action to the Southern District of New York [Docket No. 5] and (2) Motion to Dismiss
6 Plaintiff's Amended Complaint FRCP 12(b)(6), FRCP 12(b)(7); or in the Alternative Motion to
7 Transfer this Action to the Southern District of New York [Docket No. 8].

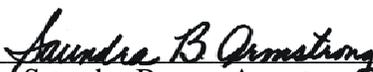
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9 IT IS SO ORDERED.

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December 15, 2008

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Sandra Brown Armstrong
United States District Judge

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