

United States District Court  
For the Northern District of California

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

STARNET INTERNATIONAL AMC INC., dba )	Case No.: 09-CV-04301-LHK
ALL CHEER INTERNATIONAL LIMITED )	
and KERRY INTERNATIONAL, )	ORDER VACATING MOTION
	HEARING, CONTINUING PRETRIAL
Plaintiff, )	CONFERENCE, AND SETTING
	PRETRIAL SCHEDULE
v. )	
MOUSA KAFASH dba BAPAZ GARMENTS, )	
et al., )	
Defendants. )	

Pursuant to Civil Local Rule 7-1(b), the Court today issued an order on Defendant Kafash's motion for summary judgment without hearing oral argument. *See* Dkt. No. 64. Therefore, the Court hereby VACATES the hearing on Kafash's summary judgment motion that was set for January 13, 2011.

The Court hereby CONTINUES the pretrial conference originally set for January 12, 2011 to January 19, 2011 at 2:00 PM. In preparation for the pretrial conference and trial, the parties shall comply with the following:

- A. **Meeting and Disclosure Prior to Pretrial Conference:** On or before January 7, 2011, lead counsel who will try the case shall meet and confer with respect to:
  1. Settlement of the Case;

- 1 2. Preparation of the Joint Pretrial Statement;
- 2 3. Preparation and exchange of pretrial materials to be served and lodged pursuant to
- 3 Federal Rule of Civil Procedure 26(a)(3); and
- 4 4. Clarifying and narrowing the contested issues for trial in order to achieve a just,
- 5 speedy, and efficient determination of the case.

6 **B. Joint Pretrial Statement and Order:** On or before January 14, 2011, the parties shall  
7 lodge and serve a Joint Pretrial Statement and Proposed Order containing the following  
8 information:

- 9 1. Substance of the Action. A brief description of the parties, the substance of claims  
10 and defenses that remain to be decided, and the operative pleadings that raise the  
11 issues;
- 12 2. Relief Sought. A detailed statement of all relief claimed, particularly itemizing all  
13 elements of damages claimed as well as witnesses, documents, or other evidentiary  
14 material to be presented concerning the amount of damages;
- 15 3. Undisputed Facts. A plain and concise statement of all relevant facts to which the  
16 parties will stipulate for incorporation into the trial record without the necessity of  
17 supporting testimony or exhibits;
- 18 4. Disputed Factual Issues. A plain and concise list of the issues of fact that are  
19 contested and remain to be litigated at trial;
- 20 5. Agreed Statement. A statement assessing whether all or part of the action may be  
21 presented upon an agreed statement of facts;
- 22 6. Stipulations. A statement of proposed stipulations or agreements that will expedite  
23 the presentation of evidence;
- 24 7. Witnesses to be Called. A list of witnesses likely to be called at trial, other than  
25 solely for impeachment or rebuttal, together with a brief statement following each  
26 name describing the substance of the testimony to be given. No party shall be  
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1 permitted to call any witness in its case in chief who is not disclosed in its Joint  
2 Pretrial Statement without leave of the Court for good cause;

- 3 8. Exhibits, Schedules, Summaries. A list of all documents and other items to be  
4 offered as exhibits at the trial, other than solely for impeachment or rebuttal, with a  
5 brief statement following each, describing its substance or purpose and the identity  
6 of the sponsoring witness;
- 7 9. Disputed Legal Issues. Without extended legal argument, a concise statement of  
8 each disputed point of law concerning liability or relief, citing supporting statutes  
9 and decisions;
- 10 10. Further Discovery or Motions. A statement of all remaining discovery, if any, or  
11 any motions or matters that must be resolved prior to trial, including motions in  
12 limine;
- 13 11. Disputed Evidentiary Issues. A concise statement of each disputed evidentiary issue  
14 (even if a motion in limine will not be filed on that issue), citing supporting statutes  
15 and decisions or referring to the appropriate motion in limine;
- 16 12. Bifurcation, Separate Trial of Issues. A statement of whether bifurcation or a  
17 separate trial of specific issues is feasible and desired;
- 18 13. Estimate of Trial Time. An estimate of the total number of hours or days needed for  
19 the trial; and
- 20 14. Miscellaneous. Any other matters that will facilitate the just, speedy and efficient  
21 determination of the action.

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1           **C. Binding Effect of the Joint Pretrial Statement and Order:** The Joint Pretrial  
2           Statement and Order described above shall recite, directly above the signature lines of  
3           each party, the following:

4           *The foregoing admissions having been made by the parties, and the parties having*  
5           *specified the foregoing issues of fact and law remaining to be litigated, this order shall*  
6           *supplement the pleadings and govern the course of trial of this action, unless modified*  
7           *to prevent manifest injustice.*

8           **D. Preparation for Trial**

9           1. Exhibits:

- 10           a) On or before January 14, 2011, the parties shall exchange copies of all exhibits,  
11           summaries, charts, and diagrams to be used at trial other than solely for  
12           impeachment or rebuttal.
- 13           b) Each exhibit shall be pre-marked for identification. Counsel shall meet and  
14           confer and reach agreement upon a method for marking exhibits (for example,  
15           Plaintiff shall use numbers and Defendant shall use letters, or Plaintiff shall use  
16           numbers 100-199 and Defendant shall use numbers 200-299, etc.).
- 17           c) On or before January 18, 2011, the parties shall deliver three sets of all pre-  
18           marked exhibits contained in three ring binders to Martha Parker Brown,  
19           Courtroom Deputy to Judge Koh.
- 20           d) No party shall be permitted to offer any exhibit at trial that is not disclosed in its  
21           Joint Pretrial Statement without leave of the Court for good cause, unless it is  
22           offered solely for impeachment or rebuttal.

- 23           2. Motions in Limine. On or before January 11, 2011, the parties shall file and serve  
24           any motions in limine, and any opposition thereto on or before January 14, 2011.  
25           Ordinarily, these motions will be deemed submitted without oral argument. Each  
26           motion should be presented in a separate memo and numbered as, for example,  
27           “Plaintiff’s Motion in Limine No. 1 to Exclude . . . .” Please limit motions in limine  
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1 to circumstances that actually require a ruling in advance of trial. Usually five or  
2 fewer motions per side are sufficient at the Pretrial Conference stage (without  
3 prejudice to raising matters as the trial progresses). Each motion should address a  
4 single topic, be separate, and contain no more than seven pages of briefing per side.

5 3. Deposition and Discovery Designations: On or before January 11, 2011, the parties  
6 shall file and serve any excerpts of deposition testimony or other discovery to be  
7 offered at trial, other than solely for impeachment or rebuttal. (A hard copy of the  
8 designated deposition testimony with page and line references, or the interrogatory  
9 response or admission shall be provided.) Any objections to the use of designated  
10 excerpts and any counter-designations of deposition testimony shall be filed and  
11 served on or before January 14, 2011.

12 4. Proposed Findings of Fact and Conclusions of Law. On or before January 14, 2011,  
13 each party shall file and serve proposed findings of fact and conclusions of law.  
14 The findings of fact shall set forth in simple declarative sentences, separately  
15 numbered, all factual contentions relied upon by the party in support of its claims or  
16 defenses and shall be free of pejorative language and argument. Conclusions of law  
17 shall be supported by appropriate citation to legal authority. The proposed findings  
18 of fact and conclusions of law shall be submitted in hard copy as well as in word  
19 processing format via e-mail to [LHKpo@cand.uscourts.gov](mailto:LHKpo@cand.uscourts.gov).

20 5. Trial Briefs: Trial briefs are optional, but any party wishing to file a trial brief must  
21 do so on or before January 14, 2011.

22 6. Time Limits: Each side will have 2.5 hours for opening, closing, and all  
23 examinations (whether direct, cross, re-direct, or re-cross). Each side may allocate  
24 its 2.5 hours as it wishes.

25 **E. Scheduling**

26 The trial schedule will be 9:00 a.m. to 4:30 p.m., with a lunch break from 12:00 p.m. to  
27 1:30 p.m., on Monday, January 24, 2011.

1           **F. Settlement and Continuances**

2           Shortly before trial or a final Pretrial Conference, counsel occasionally wish to jointly  
3           advise the Court that a settlement has been reached and seek to take the matter off  
4           calendar based on a settlement “in principle” with disputes remaining. Cases, however,  
5           cannot be taken off calendar in this manner. Unless and until a stipulated dismissal is  
6           filed or placed on the record, all parties must be prepared to proceed as scheduled. Only  
7           an advance continuance *expressly approved by the Court* will release counsel and the  
8           parties from their obligation to proceed. If counsel expect that a settlement will be final  
9           by the time of Pretrial Conference or trial, they should notify the Court immediately in  
10          writing, or, if settlement occurs over the weekend, by voice mail to Martha Parker  
11          Brown, Courtroom Deputy to Judge Koh. The Court will attempt to confer with  
12          counsel promptly to determine whether a continuance is in order. Pending such a  
13          conference, however, counsel must prepare and make all filings and be prepared to  
14          proceed with the trial.

15          **G. Opportunities for Junior Lawyers**

16          The Court strongly encourages parties to permit less experienced lawyers to examine  
17          witnesses at trial and to have an important role at trial. Counsel should be prepared to  
18          discuss such opportunities at the Pretrial Conference.

19          **IT IS SO ORDERED.**

20          Dated: January 5, 2011



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LUCY H. KOH  
United States District Judge