

United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PEPPER, N.A.,
Plaintiff,
v.
EXPANDI, INC., et al.,
Defendants.

Case No. 15-cv-04066 NC
ORDER TO SHOW CAUSE

The parties have a pending summary judgment motion with the Court. In defendants’ reply brief, defendants objected to most of Pepper’s exhibits because the exhibits are not authenticated. Dkt. No. 51. At the hearing, the Court gave Pepper an opportunity to reply, and Pepper stated that some of the documents had been produced by defendants, and that authentication was not necessary at this stage. Upon further review, the Court observes that Pepper did not attach a declaration attesting to the authenticity of the documents in its opposition to defendants’ summary judgment motion.

“We have repeatedly held that unauthenticated documents cannot be considered in a motion for summary judgment. In a summary judgment motion, documents authenticated through personal knowledge must be attached to an affidavit that meets the requirements of Fed. R. Civ. P. 56(e) and the affiant must be a person through whom the exhibits could be admitted into evidence.” *Orr v. Bank of Am., NT & SA*, 285 F.3d 764, 773-74 (9th Cir. 2002) (internal quotations and citations omitted).

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Thus, Pepper is ordered to show cause why the Court should not exclude exhibits B, D, H, I, J, L, and M because Pepper failed to present admissible evidence. Pepper must submit a declaration that authenticates the documents, along with the supporting evidence by 5:00 p.m. on April 25, 2016, or the Court will exclude those exhibits.

IT IS SO ORDERED.

Dated: April 21, 2016



NATHANAEL M. COUSINS
United States Magistrate Judge