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| 4 | Fax: 619-243-0088 | | |
| 5 | Attorneys for Plaintiff Marketing Information Masters, Inc. | | |
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| 9 | UNITED STATES DISTRICT COURT | | |
| 10 | SOUTHERN DISTRICT OF CALIFORNIA | | |
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| 12 | Marketing Information Masters, Inc., a California corporation, | Case No. 06 CV 1682 JAH (JMA) | |
| 13 | Plaintiff, | | |
| 14 | VS. | PLAINTIFF'S REQUEST FOR AN EARLY NEUTRAL EVALUATION | |
| 15 | The Board of Trustees of the California State | CONFERENCE AND/OR STATUS CONFERENCE | |
| 16 | University System, a public entity acting through its subdivision San Diego State | CONTENENCE | |
| 17 | University; and Robert A. Rauch, an individual, | | |
| 18 | Defendants. | | |
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| 21 | Plaintiff Marketing Information Masters, Inc. ("Plaintiff") hereby requests that the Court | | |
| 22 | schedule and conduct an Early Neutral Evaluation Conference ("ENE") and/or a status conference | | |
| 23 | in this matter. | | |
| 24 | Pursuant to Local Rule 16.1(c), an ENE or status conference usually is held within 45 days | | |
| 25 26 | after the filing of a response to a plaintiff's complaint. In this case, Defendants filed their initial | | |
| 27 | responses (by way of FRCP 12(b)(6)) motions) on or about September 14, 2006. Defendants' | | |
| 28 | initial 12(b)(6) motions were denied. | | |

Defendants thereafter renewed their FRCP 12(b)(6) motions on November 20, 2006. The briefing in connection with Defendants' second FRCP 12(b)(6) motion has been completed, and the Court has taken the motion under submission. The pending FRCP 12(b)(6) motion raises complicated issues of sovereign immunity and the constitutional relationship between Congress and the states, so there is no way to predict when a decision on the pending motion will be forthcoming. However, Plaintiff anticipates that it could take a substantial amount of time for the Court to consider and decide the pending motion.

Plaintiff believes that it is in the interests of efficient case management and judicial economy that an ENE Conference and/or status conference be held in this case so that the parties can discuss possible settlement and/or case scheduling. Plaintiff believes that this case is at the stage where settlement is most probable, so an ENE Conference should be scheduled forthwith to allow the parties to fully explore settlement options with the assistance of the Court. Of course, if a settlement can be reached, the Court can save a substantial amount of time working on the pending FRCP 12(b)(6) motions.

If an early settlement cannot be reached, Plaintiff is interested in proceeding with discovery as soon as possible, especially given that information learned through discovery may be directly relevant to certain issues raised by Defendants' pending FRCP 12(b)(6) motion. Discovery also is required in order to allow Plaintiff to determine whether it is necessary and appropriate for Plaintiff to add additional parties as defendants in this case.

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| 1 | Accordingly, in light of the foregoing and pursuant to the provisions of Local Rule | | |
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| 2 | 16.1(c)(1), Plaintiff hereby requests that the Court schedule an ENE Conference, discovery | | |
| 3 | conference and/or status/case management conference at the earliest possible date available on the | | |
| 4 | Court's calendar. | | |
| 5 | | | |
| 6 | DATED: March 30, 2007 THE AFFINITY LAW GROUP APC | | |
| 7 | | | |
| 8 | By: /s/ Gregory P. Goonan | | |
| 9 | Gregory P. Goonan Attorneys for Plaintiff | | |
| 10 | Marketing Information Masters, Inc. | | |
| | | | |
| 11 | Certificate of Service | | |
| 12 | The undersigned hereby certifies that on this 30 th day of March 2007, a true and accurate | | |
| 13 | copy of the attached document was electronically filed with the Court, to be served by operation of the Court's electronic filing system, upon the following: Jonathan S. Pink, Esq. | | |
| 14 | | | |
| 15 | Lewis Brisbois Bisgaard & Smith LLP | | |
| 16 | 650 Town Center Drive, Suite 1400 Costa Mesa, CA 92626 | | |
| 17 | Attorneys for Defendants | | |
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| 20 | <u>/s/ Gregory P. Goonan</u> | | |
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