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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Marketing Information Masters, Inc., a
 California corporation,

Plaintiff,

vs.

The Board of Trustees of the California State
 University System, a public entity acting
 through its subdivision San Diego State
 University; and Robert A. Rauch, an
 individual,

Defendants.

Case No. 06 CV 1682 JAH (JMA)

**PLAINTIFF'S REQUEST FOR AN
 EARLY NEUTRAL EVALUATION
 CONFERENCE AND/OR STATUS
 CONFERENCE**

Plaintiff Marketing Information Masters, Inc. ("Plaintiff") hereby requests that the Court schedule and conduct an Early Neutral Evaluation Conference ("ENE") and/or a status conference in this matter.

Pursuant to Local Rule 16.1(c), an ENE or status conference usually is held within 45 days after the filing of a response to a plaintiff's complaint. In this case, Defendants filed their initial responses (by way of FRCP 12(b)(6)) motions) on or about September 14, 2006. Defendants' initial 12(b)(6) motions were denied.

1 Defendants thereafter renewed their FRCP 12(b)(6) motions on November 20, 2006. The
2 briefing in connection with Defendants' second FRCP 12(b)(6) motion has been completed, and
3 the Court has taken the motion under submission. The pending FRCP 12(b)(6) motion raises
4 complicated issues of sovereign immunity and the constitutional relationship between Congress
5 and the states, so there is no way to predict when a decision on the pending motion will be
6 forthcoming. However, Plaintiff anticipates that it could take a substantial amount of time for the
7 Court to consider and decide the pending motion.
8

9 Plaintiff believes that it is in the interests of efficient case management and judicial
10 economy that an ENE Conference and/or status conference be held in this case so that the parties
11 can discuss possible settlement and/or case scheduling. Plaintiff believes that this case is at the
12 stage where settlement is most probable, so an ENE Conference should be scheduled forthwith to
13 allow the parties to fully explore settlement options with the assistance of the Court. Of course, if
14 a settlement can be reached, the Court can save a substantial amount of time working on the
15 pending FRCP 12(b)(6) motions.
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17 If an early settlement cannot be reached, Plaintiff is interested in proceeding with
18 discovery as soon as possible, especially given that information learned through discovery may be
19 directly relevant to certain issues raised by Defendants' pending FRCP 12(b)(6) motion.
20 Discovery also is required in order to allow Plaintiff to determine whether it is necessary and
21 appropriate for Plaintiff to add additional parties as defendants in this case.
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