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Attorneys for Defendants  
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BETH LYONS, JUNE MAKELA, FRANK MILLSPAUGH,  
JOHN MURDOCK, MICHEAL PALMER, and  
KAROLYN VAN PUTTEN

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

THE PEOPLE OF THE STATE OF  
CALIFORNIA, ex rel. CAROL SPOONER,  
et al.,

Plaintiffs,

vs.

PACIFICA FOUNDATION, a California  
non-profit public benefit corporation and  
charitable trust, et al.,

Defendants.

Case No. C 00 3815 MJJ

**FOUNDATION DEFENDANTS'  
EXPEDITED MOTION TO BEGIN  
LIMITED DISCOVERY**

Ctrm: 11  
Judge: Hon. Martin J. Jenkins

Defendants, Pacifica Foundation, Mary Frances Berry, June Makela, Frank  
Millspaugh, Andrea Cisco, Ken Ford, David Acosta, Micheal Palmer, Robert Farrell,  
Karolyn Van Putten, Wendell Jones, Valrie Chambers, Bertram Lee, Beth Lyons, John  
Murdock and Lynn Chadwick ("Foundation Defendants") by their undersigned counsel,

1 file this Expedited Motion to Begin Limited Discovery.

2 The plaintiffs, in their motion to remand, dispute the proposed alignment of Leslie  
3 Cagan, Tomas Moran and Peter Bramson, Robert Robinson and Rabbi Aaron Kriegel, as  
4 plaintiffs. The alignment of these parties affects whether this action can be removed  
5 pursuant to 28 U.S.C. 1441.<sup>1</sup> See *Famous Amos Chocolate Chip Cookie Corporation v.*  
6 *Radack*, 1993 WL 21496 (N.D. Cal. 1993) (recognizing the right of parties to engage in  
7 limited discovery to determine the proper alignment of parties.) Civil Local Rule 16-3(b)  
8 specifically provides that a party may seek to begin discovery by expedited motion  
9 pursuant to Civil L.R. 7-10 when "necessary to prepare for a jurisdictional or venue  
10 motion." Both the Ninth Circuit and this Court consistently have recognized that, where  
11 jurisdictional facts are disputed, parties should be allowed to conduct discovery for the  
12 limited purpose of establishing those facts before the claims before the Court can be  
13 dismissed. See *Siderman v. Republic of Argentina*, 965 F.2d 699, 713 (9th Cir. 1992); see  
14 also *Souza v. Northwest Mortgage, Inc.*, C.A. C-96-1641-VRW, 1997 WL 220325 (N.D.  
15 Cal. 1997).

16 The plaintiffs' principal challenge to the realignment of Cagan, Moran, Bramson,  
17 Robinson and Kriegel does not challenge the substantive merits of the Foundation  
18 Defendants' factual representations. The challenge is based on the extrinsic nature of the  
19 evidence submitted to this Court. That technical concern can be resolved through the  
20 limited discovery requested by this Motion. Therefore, the Foundation Defendants seek  
21 leave to take discovery respecting the proper alignment of Cagan, Moran, Bramson,  
22 Robinson and Kriegel.

23 Dated: November 10, 2000 WENDEL, ROSEN, BLACK & DEAN, LLP

24 By 

25 Daniel Rapaport

26 Attorneys for Defendants Pacifica Foundation, et al.

27 <sup>1</sup> Leslie Cagan, Tomas Moran, Peter Bramson, Robert Robinson and Rabbi Aaron Kriegel  
28 have not joined the Foundation Defendants' petition for removal.