1 LINDEMANN LAW FIRM, APC BLAKE J. LINDEMANN, SBN 255747 433 N. Camden Drive, 4<sup>th</sup> Floor 2 Beverly Hills, CA 90210 Telephone: (310)-279-5269 Facsimile: (310)-300-0267 3 4 E-mail: blake@lawbl.com 5 Attorneys For Plaintiffs CHUANJIE YANG, OLLIE LAN, LIU LIU AND THOSE SIMILARLY 6 SITUATED 7 UNITED STATES DISTRICT COURT 8 9 CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION 10 Case No: 2:17-cv-04012-GW(JEM) CHUANJIE YANG, an individual; OLLIE 11 LAN aka RUONING LAN, an individual; Hon. George H. Wu 12 LIU LIU, and all those similarly situated. 13 EVIDENTIARY OBJECTIONS TO, Plaintiffs, AND REQUEST TO STRIKE 14 PORTIONS OF, THE 15 V. **DECLARATION OF EUGENE** WALLACE AND CLEMENT D. 16 MARKET AMERICA, INC., a North **ERHARDT** Carolina Corporation; MARKET 17 AMERICA WORLDWIDE, INC., a North 18 Carolina Corporation; JAMES HOWARD RIDINGER, an individual; LOREN 19 Hearing Date: November 16, 2017 RIDINGER, an individual; MARC Time: 8:30 a.m. 20 ASHLEY, an individual; and DOES 1-Courtroom: 9D 21 100: 22 Defendants. 23 24 25 26 27

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Plaintiffs Chuanjie Yang, Ollie Lan, and Liu Liu, submit the following objections to the Declaration of Eugene Wallace ("Wallace Decl."), Dkt. No. 62-2 (formerly 39-1) and the Declaration of Clement D. Erhartd ("Erhardt Decl."), Dkt. No. 39-2 (formerly 39-2).

#### I. **DEFENDANTS' OPPOSITION RELIES ON INADMISSIBLE** EVIDENCE.

"When considering a motion to compel arbitration, a court applies a standard similar to the summary judgment standard of Fed.R.Civ.P. 56." Jurado v. Schutz 655, LLC, 2017 WL 600076, \*5 (C.D. Cal. Feb. 13, 2017) (quoting Concat LP v. Unilever, PLC, 350 F.Supp.2d 796, 804 (N.D. Cal. 2004).

It is fundamental that trial courts "can only consider admissible evidence in ruling on a motion for summary judgment." Orr v. Bank of Am., 285 F.3d 764, 773 (9th Cir. 2002) (emphasis added); see also, e.g., Beyene v. Coleman Sec. Services, Inc., 854 F.2d 1179, 1181-82 (9th Cir. 1988); see also Fed. R. Civ. P. 56(c); Fed. R. Evid. 101 (Rules of Evidence apply to all proceedings in the courts of the United States); Fed. R. Evid. 1101 (listing exceptions to Rule 101).

Hearsay, unauthenticated documents, out-of-context excerpts, and evidence with no foundation will not suffice, and are not to be considered by the court in ruling on summary adjudication. See Block v. City of Los Angeles, 253 F.3d 410, 418-19 (9th Cir. 2001) (deciding that consideration of a declaration's facts not based on personal knowledge was an abuse of discretion because such facts were inadmissible). Much of the evidence on which Defendants attempt to rely fails to meet the minimum threshold requirements of admissibility, as set forth below.

#### II. LAY OPINION/LEGAL CONCLUSIONS

Legal conclusions are not admissible evidence. See Pierce v. Kaiser Found. Hospitals, CV 09-03837 WHA, 2010 WL 4590930, at \*8 (N.D. Cal. Nov. 4, 2010), aff'd, 470 F. App'x 649 (9th Cir. 2012) (excluding numerous declarant statements

containing inadmissible legal conclusions). The Declarants, without any legal expertise, repeatedly purport to state legal conclusions revenues, and other legal issues, and the legal effects of documents supposedly relevant to this dispute. See Fed. R. Evid. 701; *see also Evangelista v. Inlandboatmen's Union of Pac.*, 777 F.2d 1390, 1398 n.3 (9th Cir. 1985) (lay opinion construing contract provisions is inadmissible); Pierce, 2010 WL 4590930, at \*8 (declaration that opponent "breached" agreement or "violated" laws is inadmissible legal conclusion).

# III. EVIDENCE MUST BE RELEVANT AND PROPERLY AUTHENTICATED

Irrelevant evidence cannot be considered in summary judgment proceedings. See Fed. R. Evid. 402; see also Smith v. Hughes Aircraft Co., 22 F.3d 1432, 1439 (9th Cir. 1993) (affirming trial court's refusal to consider irrelevant evidence on summary judgment); Uche-Uwakwe v. Shinseki, 972 F. Supp. 2d 1159, 1165 (C.D. Cal. 2013) (sustaining objection that statement filed in support of motion for summary judgment was inadmissible for lack of relevance and foundation).

### IV. LACK OF PERSONAL KNOWLEDGE/FOUNDATION

A fact witness may not testify to a matter unless the witness has personal knowledge of the matter. Fed. R. Evid. 602; Fed. R. Civ. P. 56(c) ("declaration used to support or oppose a motion must be made on personal knowledge, set out facts that would be admissible in evidence, and show that the affiant or declarant is competent to testify on the matters stated"); *Orr*, 285 F.3d at 774 & n.9; *Express, LLC v. Fetish Grp., Inc.*, 464 F. Supp. 2d 965, 973 (C.D. Cal. 2006) ("Declarations submitted in conjunction with summary judgment proceedings must . . . be based on personal knowledge"). Further, "[a] declarant's mere assertions that he or she possesses personal knowledge and competency to testify are not sufficient." *Boyd v. City of Oakland*, 458 F. Supp. 2d 1015, 1023 (N.D. Cal. 2006). A declarant must show personal knowledge and competency "affirmatively," under Rule 56, for

example, by "the nature of the declarant's position and nature of participation in matter." *Id.*; *see also Barthelemy v. Air Lines Pilots Ass'n*, 897 F.2d 999, 1018 (9th Cir. 1990) (inferring personal knowledge from affiants' "positions and the nature of their participation in the matters to which they swore").

#### V. SPECULATIVE AND CONCLUSORY STATEMENTS

The unsupported, speculative, and conclusory statements and claims of opposing parties and their attorneys are not evidence and do not raise a genuine issue of material fact sufficient to preclude summary judgment. Lujan v. Nat'l Wildlife Fed'n, 497 U.S. 871, 888 (1990) (The purpose of Rule 56(e) is "not to replace conclusory allegations of the complaint with conclusory allegations of an affidavit."). Rather, "[w]here the moving party will have the burden of proof at trial, it must affirmatively demonstrate that no reasonable trier of fact could find other than for the moving party." Int'l Church of Foursquare Gospel v. City of San Leandro, 902 F. Supp. 2d 1286, 1290-91 (N.D. Cal. 2012) (emphasis added) (citing Soremekun v. Thrifty Payless, Inc., 509 F.3d 978, 984 (9th Cir. 2007)). Cf. Orr, 285 F.3d at 783 ("To defeat summary judgment, [one opposing summary judgment] must respond with more than mere hearsay and legal conclusions") (internal quotation and citation omitted); Cambridge Elecs. Corp. v. MGA Elecs., Inc., 227 F.R.D. 313, 320 (C.D. Cal. 2004) ("Conclusory, speculative testimony in affidavits and moving papers is insufficient to raise genuine issues of fact and defeat summary judgment").

#### VI. HEARSAY

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Generally, "inadmissible hearsay evidence may not be considered on a motion for summary judgment." *Anheuser-Busch, Inc. v. Natural Beverage Distribs.*, 69 F.3d 337, 345 n.4 (9th Cir. 1995); *see also Blair Foods, Inc. v. Ranchers Cotton Oil*, 610 F.2d 665, 667 (9th Cir. 1980) ("hearsay evidence is inadmissible and may not be considered by this court on review of a summary judgment"); *In re Cypress Semiconductor, Inc. Sec. Litig.*, 891 F. Supp. 1369, 1374 (N.D. Cal. 1995) (hearsay

evidence cannot be considered in summary judgment proceedings), *aff'd sub nom*, *Eisenstadt v. Allen*, 113 F.3d 1240 (9th Cir. 1997).

#### VII. UNAUTHENTICATED DOCUMENTS

Authentication or identification is a condition precedent to the admissibility of a document. Fed. R. Evid. 901. "We have repeatedly held that unauthenticated documents cannot be considered in a motion for summary judgment." *Orr*, 285 F.3d at 773 (affirming summary judgment where Plaintiff's opposing evidence is unauthenticated and therefore inadmissible); *see also Cristobal v. Siegel*, 26 F.3d 1488, 1494 (9th Cir. 1994); *Hal Roach Studios, Inc. v. Richard Feiner & Co., Inc.*, 896 F.2d 1542, 1550-51 (9th Cir. 1990); *Canada v. Blain's Helicopters, Inc.*, 831 F.2d 920, 925 (9th Cir. 1987); *Hamilton v. Keystone Tankship Corp.*, 539 F.2d 684, 686 (9th Cir. 1976); *see also* Fed. R. Civ. P. 56(e).

To be considered by the court, "documents must be authenticated by and attached to an affidavit that meets the requirements of [Rule] 56(e) and the affiant must be a person through whom the exhibits could be admitted into evidence." *Blain's Helicopters*, 831 F.2d at 925 (citation and quotation omitted). A document which lacks a proper foundation to authenticate it cannot be used to support a motion for summary judgment. *Id.*; *Hamilton*, 539 F.2d at 686; *United States v. Dibble*, 429 F.2d 598, 601-602 (9th Cir. 1970); *Hal Roach Studios*, 896 F.2d at 1550-1551. Moreover, a document cannot be authenticated by one who does not have personal knowledge of its authenticity. The foundation is laid for receiving a document in evidence by the testimony of a witness with personal knowledge of the facts who attests to the identity and due execution of the document and, where appropriate, its delivery. *Dibble*, 429 F.2d at 602.

#### VIII. BEST EVIDENCE RULE

The "best evidence rule" requires that contents of documents must be proved by producing the document itself. Fed. R. Evid. 1001, 1002.

# IX. SPECIFIC OBJECTIONS TO WALLACE DECL.

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3	Obj.	<b>Declaration Cite</b>	Grounds For Objection
4	1	¶ 3 (Wallace Decl.) "Distributors have	Best Evidence Rule. The best
5		the option to sign up as a distributor	evidence of what MA does are
6		online by executing the Independent Distributor Agreement and Application	the documents and communications between the
7		or to fill out a paper agreement and	parties.
8		mail the executed agreement to Market AmericaChuanjie Yang, Ruoning	Calls For Speculation and Lacks
9		Lan, and Liu Liu all signed up online	Foundation. Mr. Wallace's
10		through the Sign-up Wizard."	statement is vague as to time and speculates as to a matter of
11			sign up (among distributors of
12			MA) that he does not have personal knowledge. Mr.
13			Wallace lacks personal
14			knowledge as to the sign-up process in the Chinese
15			American community.
16			Lack of Personal Knowledge.
17			Mr. Wallace has no personal
18			knowledge that the Plaintiff's "signed up online"
19			signed up omme
20	2	¶ 4 (Wallace Decl.) "Chuanjie Yang's signup," "indicates the date that Yang	Calls For Speculation and Lacks Personal Knowledge.
21		selected 'I Agree' to the terms and	reisonal Knowledge.
22		conditions and submitted the	Mr. Wallace lacks personal
23		agreement." "Yang agreed to the Terms and Conditions of the Agreement and	knowledge as to each of these statements and he is speculating
24		signed up online." "Exhibit A is a	in each phrase.
25		screenshot of Market America's electronic record of Chuanjie Yang's	Hearsay. Defendant seeks to
26		signup."	offer several vague and
27			ambiguous out of court statement to prove the truth of
28			the matter asserted, that
20			Chuanjie operated the computer

to sign up.  Calls For Legal Conclusion  As to what Yang agreed to.  Authenticity  Plaintiff objects to the authenticity of the computer record, Exhibit A, and it should be disregarded for all purposes. Without discovery, Plaintiff objects to the admission of this document.  3 ¶ 5 (Wallace Decl.) "Lan's signup," "indicates the date that Lan selected "I Agree" to the terms and conditions and submitted the agreement." "Lan agreed to the Terms and Conditions of the Agreement and signed up online." "Exhibit B is a screenshot of Market America's electronic record of Lan's sign up."  Mr. Wallace lacks personal knowledge as to each of these statements and he is speculating in each phrase. Wallace has no personal knowledge of what Lan agreed to.  Hearsay. Defendant seeks to offer several vague and ambiguous out of court statement to prove the truth of the matter asserted.  Authenticity  Plaintiff objects to the authenticity of the computer record, Exhibit B, and it should be disregarded for all purposes. Without discovery, Plaintiff objects to the admission of this document.				
As to what Yang agreed to.  Authenticity  Plaintiff objects to the authenticity of the computer record, Exhibit A, and it should be disregarded for all purposes. Without discovery, Plaintiff objects to the admission of this document.  3	1			to sign up.
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document	26			
28	27			2
	28			document.

1				Calls For Legal Conclusion
2				As to what Lan agreed to. As to what Yang agreed to.
3				As to what I alig agreed to.
4	-	4	4TO (NV 11 D 1) ((TD1 C 11 ' '	X7 1 4 1 ' X7
5		4	¶ 8 (Wallace Decl.) "The following is the process by which a distributor signs	Vague and Ambiguous. Vague and ambiguous as to the
			up online."	process.
6 7				Lack of Personal Knowledge.
, I				Ewon of Ferroma Time Wiedge.
8				Lacks personal knowledge as to
9				how a distributor signs up online.
10	-			
11		5	¶ 9 (Wallace Decl.) "The Agreement grants distributors the right to sell certain	<u>Vague</u> . Vague and ambiguous as to certain products.
12			products offered by Market America."	-
13				Calls For Legal Conclusion. Calls for legal conclusion as to
14				what is "granted" by the
15				agreement.
16	-	6	¶ 10 (Wallace Decl.) "The Terms and	Calls For Legal Conclusion.
17			Conditions of the Agreement grants both	Calls for legal conclusion as to
18			parties the right to terminate the agreement for any reason by providing	what is "granted" by the agreement, and right to
19			30 days notice."	terminate.
20	-	7	¶11 (Wallace Decl.) "The terms and	Calls For Legal Conclusion.
21		,	conditions of the Agreement give Market	Calls for legal conclusion as to
22			America the discretion to modify the Agreement's terms and conditions, but	what is "given."
23			require Market America to notify	Best Evidence Rule.
24			distributors that it is modifying the	The document speaks for itself,
25			agreement."	and the best evidence is the actual terms of the Agreement,
26				and the Career Manual, not a
27				speculative opinion of what the document says and means.
28				

				Т
1	- ;	8	¶ 12 (Wallace Decl.) "The Agreement's	Vague and Ambiguous. Vague
$\begin{bmatrix} 2 \\ 3 \end{bmatrix}$			choice of law provision reads as follows"	as to "the Agreement's choice of law provision." Document
4				speaks for itself.
5				Calls For Legal Conclusion. Calls for legal conclusion as to
6				"the Agreement's choice of law
7				provision."
8				Best Evidence Rule.
9				The document speaks for itself, and the best evidence is the
10				actual terms of the Agreement,
11				and the Career Manual, not a speculative opinion of what the
12				document says and means.
13				
14		9	¶ 13 (Wallace Decl.) "The Agreement's	Calls For Logal Condusion
15		9	arbitration provision reads as follows"	Calls For Legal Conclusion. Calls for legal conclusion as to
16 17				"the Agreement's arbitration provision." Document speaks
18				for itself.
19				Vague and Ambiguous.
20				Arbitration encompasses other provisions of the agreement.
21				Pagt Evidence Pula
22				Best Evidence Rule. The document speaks for itself,
23				and the best evidence is the actual terms of the Agreement,
24				and the Career Manual, not a
25				speculative opinion of what the document says and means.
26				accument says and mouns.
27	1	0	¶ 15 (Wallace Decl.) "Until the	Vague and Ambiguous. Vague
28			checkbox was selected Yang, Lan, and	and ambiguous as to the same

1		Liu were not able to submit the	requirement and functionality
		Agreement or complete the	has been in place.
2		Application." "Yang, Lan, and Liu	
3		clicked the checkbox indicating	Lack of Personal Knowledge.
4		acceptance of terms and conditions, which specifically designates arbitration	Lacks personal knowledge as to
5		as the sole method for resolving any	how a distributor signs up
3		disputes," "and chooses North Carolina	online, what was clicked by
6		as governing law and sole venue."	who, and lacks personal
7			knowledge as to each statement
8		"Same requirement and functionality has	in this paragraph.
0		been in place."	
9			Calls For Legal Conclusion. As to "sole venue", "agreed,"
10			were not able to submit the
11			agreement, same requirement
			and functionality has been in
12			place
13			
14			Best Evidence Rule.
			The document speaks for itself,
15			and the best evidence is the actual terms of the Agreement,
16			and the Career Manual, not a
17			speculative opinion of what the
			document says and means.
18			
19	11	¶14 (Wallace Decl.) "Yang signed and	Lack of Personal Knowledge
20		mailed his annual renewal form," "which Yang agreed."	And Calls For Speculation.
21			Lacks personal knowledge as to
22			what Yang signed and mailed,
23			and to what he agreed.
			Calls For Legal Conclusion
24			A 1 1 1 X
25			As to what Yang agreed.
26			

1		12	¶16 (Wallace Decl.) "Yang renewed his Agreement with Market America each	Lack of Personal Knowledge And Calls For Speculation.
2			year until 2015. In 2010 and 2011, i.e.	-
3			Before Auto Renewal was an option- Yang signed and mail his annual renewal	Lacks personal knowledge as to what Yang opted into renew
4			form to Market America."	each year and to what he
5				clicked.
6			¶17 (Wallace Decl.) "Yang opted in to	Calls For Legal Conclusion
7			renew his agreement each year. Before	
8			opting in, Yang clicked I agree."	As to what Yang agreed.
9				Authenticity
10				Yang did not execute p. 22 of
11				the Wallace Decl.
12		13	¶18 (Wallace Decl.) "Distributors can	Lack of Personal Knowledge
13			access the terms and conditions of the	And Calls For Speculation.
14			Agreement at any time."	Lacks personal knowledge as to
15				what distributors can access to
16				at any time.
17				
18		14	¶19 (Wallace Decl.) "Yang faxed a	Lack of Personal Knowledge
19			letter requesting to cancel his distributorship."	And Calls For Speculation.
20			distributorship.	Lacks personal knowledge as to
21				what Yang "faxed."
22				Calls For Legal Conclusion
23				As to whather Vong conceled
24				As to whether Yang canceled distributorship.
25				Authenticity
26				
27				Plaintiff's dispute the authenticity of this document.
				This is not Yang's handwriting
28	l └			<u> </u>

1				on page 23.
2				
3 4	_	15	¶20 (Wallace Decl.) "Market America's records indicate that Lan did not renew	Lack of Personal Knowledge And Calls For Speculation.
5			the Agreement in November of 2016.	
6			Therefore, Lan is currently listed as inactive in Market America's system."	That Lan did not renew, or as a matter of law she is not deemed renewed.
7				Tenewed.
8				Best Evidence Rule
9   10				Market America's claims the
11				records reflect, but no records were provided.
12				
13				
14		16	¶21 (Wallace Decl.) "Market America's records indicate that Liu did not renew	Lack of Personal Knowledge And Calls For Speculation.
15			the Agreement in March of 2017.	And Cans For Speculation.
16			Therefore, Lan is currently listed as inactive in Market America's system."	That Liu did not renew, or as a matter of law she is not deemed
17			mactive in Market / interior 5 System.	renewed.
18				Best Evidence Rule
19				
20				Market America's claims the records reflect, but no records
21				were provided.
22				
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1		17	¶6 (Wallace Decl.) "Exhibit C shows	Vague and Ambiguous
2			the information associated with Lan's distributorship."	"information associated with
3			•	Lan's distributorship."
4				Authenticity
5				Without discovery, Lan is
6				unable to verify this document.
7				Calls For Speculation/Lack of
8				Foundation
9				"When Lan signed."
10				
11				
12		18	¶7 (Wallace Decl.) "Liu's signup,"	Calls For Speculation and Lacks
13			"indicates the date that Liu selected "I Agree" to the terms and conditions and	Personal Knowledge.
14			submitted the agreement." "Liu agreed	Mr. Wallace lacks personal
15			to the Terms and Conditions of the Agreement and signed up online."	knowledge as to each of these statements and he is speculating
16			"Exhibit D is a screenshot of Market America's electronic record of Lan's	in each phrase. Wallace has no
17 18			sign up."	personal knowledge of what Liu agreed to.
18				Hearsay. Defendant seeks to
20				offer several vague and
21				ambiguous out of court statement to prove the truth of
22				the matter asserted.
23				Authenticity
24				
25				Plaintiff objects to the authenticity of the computer
26				record, Exhibit B, and it should
27				be disregarded for all purposes. Without discovery, Plaintiff
28				objects to the admission of this document.
	╽┖			document.

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19	¶ 14 (Wallace Decl.) "Arbitration	Vague and Ambiguous
	provision or the choice of law provision	Andre Itial a Caller ania a
	from 2010 to 2016"	As to which of the various arbitration and choice of law
		provisions in the DA and the
		Career Manual Wallace is
		referring to.
20	All Exhibits Attached to Wallace Decl.	Authenticity
		Based on the fact the
		Defendants have already
		submitted declarations with
		documents that Plaintiffs did
		not sign, this calls into question
		the veracity of all documents
		without adequate discovery.

## X. SPECIFIC OBJECTIONS TO ERHARDT DECL.

Obj. #	<b>Declaration Cite</b>	<b>Grounds For Objection</b>
21	¶ 4 (Erhardt Decl.) "Market America has a distributor agreement"	Vague and ambiguous. As to which "agreement" is being referred to.
22	¶ 5 (Erhardt Decl.) "Enters into an agreement when it accepts the completed documentation." "The paper forms include." "Term of one year"	Vague and ambiguous. As to which "agreement" is being referred to. Vague as to "completed documentation." Vague as to what "paper form includes." Vague as to the "agreement that has been utilized."  Calls For A Legal Conclusion. As to when a contract is "entered."

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1 2				Best Evidence Rule Term of one year - document
3				speaks for itself.
4		23	¶ 6 (Erhardt Decl.) "The Agreement sets out the general, high-level terms	Vague and ambiguous as to "high level terms"
5			between Market America and its	_mgn level terms
6			independent distributors."	Vague as to some of the terms
7				relate to Federal regulatory requirement.
8				
9				Best Evidence Rule
10				Other provisions touch upon.
11				What the document says is the best evidence. Document
12				speaks for itself.
13		24	¶ 7 (Erhardt Decl.) "Formation and	Vague and ambiguous as to
14			execution of the agreement"; "No way to become"	what agreement.
15			Coome	Lack of personal
16				knowledge/Calls for speculation as to the procedures and
17				processes of Market America
18				upper lines in the San Gabriel
19				area. This witness lacks specific and personal
20				knowledge as to procedures that
21				happen at the bottom of the pyramid, and at a granular level.
				pyrannu, and at a granular level.
22		25	¶ 8 (Erhardt Decl.) "Forum selection	Calls for a legal conclusion as
23			clause providing that it is governed by the laws of North Carolina."	to which law applies.
24				
25		26	¶ 9 (Erhardt Decl.) "Career Manual lists" "Career Manual gets granular,"	Best Evidence Rule
26			"details not included," "teaches	What the Career Manual and
27			policies."	DA provide speaks for itself in the document.
28				the document.
	ı —			

1			<u>Hearsay</u>
2			Out of court statement (what the
3			Career Manual does) offered to
4			prove the truth of the matter asserted (that it somehow didn't
5			apply to Plaintiff's
6	27	¶ 10 (Erhardt Decl.) "How to guide."	circumstances.  Best Evidence Rule
7	27	"Market America prides itself on being	Dest Evidence Ruic
8		systematized and standardized"; "Career	What the Career Manual
9		Manual is an important part"	provides speaks for itself in the document.
10			<u>Hearsay</u>
11			Out of court statement (what the
12			Career Manual does) offered to
13			prove the truth of the matter asserted (that it somehow didn't
14			apply to Plaintiff's
15			circumstances.
16	28	¶ 11 (Erhardt Decl.) "Career Manuals are utilized by virtually every direct sales	Best Evidence Rule
17		company." "Career Manual protects	What the Career Manual
18		marker America's intellectual property, serves as the basis for distributor	provides speaks for itself in the document.
19		training, and defines standards of	document.
20		conduct."	<u>Hearsay</u>
21		"Detailed specific, clear and readable. It	Out of court statement (what the
22		helps insure the distributor's	Career Manual does) offered to
23		understanding of the business of direct selling."	prove the truth of the matter asserted (that it somehow didn't
		50mmg.	apply) to Plaintiffs'
24			circumstances.
25			

1	29	¶ 12 (Erhardt Decl.) "Spell out rights and	Best Evidence Rule
2		responsibilities." In an "open and transparent way."	What the Career Manual
3			provides speaks for itself in the
4			document.
5			<u>Hearsay</u>
6			Out of court statement (what the
7			Out of court statement (what the Career Manual does) offered to
			prove the truth of the matter
8			asserted (that it somehow didn't
9			apply to Plaintiffs') circumstances.
10	30	¶ 13-22 (Erhardt Decl.) "Detailed	Best Evidence Rule
11		nature" "Evolving business model"	
12		"questions of interpretation" "de- centralized nature of direct sale and	What the Career Manual and
		interrelationship of people and	DA provide speaks for itself in the document. The DA
13		technology" "Disputes can arise"	incorporates the Career Manual
14		"Corporate employees do their best to	which requires grievance
15		resolve distributor inquiries internally"	procedure.
16		"Services reps have limited discretion."  "In most cases, controversies are settled	<u>Hearsay</u>
17		at those levels."	
18			Out of court statement (what the Career Manual does) offered to
19			prove the truth of the matter
20			asserted (that it somehow didn't apply to Plaintiffs'
21			circumstances).
22	31	¶15 (Erhardt Decl.): Are limited to	Best Evidence Rule
23	31	"internal policies and procedures and	Dest Evidence Rule
24		procedures in career manual.	What the Career Manual and
25			DA provide speaks for itself in the document. The DA
			incorporates the Career Manual
26			which requires grievance
27			procedure.
28			<u>Hearsay</u>

1 2 3 4		Out of court statement (what the Career Manual does) offered to prove the truth of the matter asserted (that it somehow didn't apply to Plaintiffs' circumstances).
5		,
6 7		Calls For Speculation/Lack of Foundation.
•		Speculative as to how the
8		policies are limited and to whom.
9		
10	¶15 (Erhardt Decl.): Are limited to "internal policies and procedures and	Best Evidence Rule
11	procedures in career manual."	What the Career Manual and
12		DA provide speaks for itself in the document. The DA
		incorporates the Career Manual
14		which requires grievance procedure.
15		procedure.
16		<u>Hearsay</u>
17 18		Out of court statement (what the
19		Career Manual does) offered to prove the truth of the matter
20		asserted (that it somehow didn't
21		apply to Plaintiffs' circumstances).
22		circumstances).
23		Calls For Speculation/Lack of Foundation.
		Speculative as to how the
24		policies are limited and to whom.
25	¶ 16 (Erhardt Decl.): Issues handled by	Best Evidence Rule
26	the dispute Resolution Board arise	What the Career Manual and
27	exclusively under the Career Manual not under the Agreement.	DA provide speaks for itself in
28		the document. The DA

1 2		incorporates the Career Manual which requires grievance procedure.
3		Hoorgov
4		Hearsay
5		Out of court statement (what the Career Manual does) offered to prove the truth of the matter
7		asserted (that it somehow didn't
8		apply to Plaintiffs' circumstances).
9		Calls For Speculation/Lack of
10		Foundation.
11		Speculative as to how the policies are limited and to
12		whom.
13		Calls for Legal Conclusion
14		Vague and Ambiguous.
15 16		
	#1/(F1 1/D 1) #	"As to issues arise."
17	¶ 16 (Erhardt Decl.): "never been considered applicable to anything other	Best Evidence Rule
18	than interpretation of Market America's	What the Career Manual and
19	Career Manual" (Calls for legal conclusion, vague and ambiguous).	DA provide speaks for itself in the document. The DA
20	conclusion, vague and amorgaous).	incorporates the Career Manual
21		which requires grievance procedure.
22		procedure.
23		<u>Hearsay</u>
24		Out of court statement (what the
25		Career Manual does) offered to
26		prove the truth of the matter asserted (that it somehow didn't
27		apply to Plaintiffs'
28		circumstances).
	<u></u>	

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1			Calls For Speculation/Lack of
2			Foundation. Speculative as to how the
3			policies are limited and to
			whom.
5			Calls for Legal Conclusion
		¶ 17 (Erhardt Decl.) "challenging the	Calls for Legal Conclusion
6		overall legality of Market America's	Vegue and Ambiguous
7		business opportunity and not any granular internal policy of the	Vague and Ambiguous. Granular internal policy of the
8		company."	company.
9			
10			<u>Hearsay</u>
11			Out of court statement (what the
12			Career Manual does) offered to prove the truth of the matter
13			asserted (that it somehow didn't
14			apply to Plaintiffs'
			circumstances).
15 16			Best Evidence Rule
17			What the Career Manual and
18			DA provide speaks for itself in
19			the document. The DA incorporates the Career Manual
$\begin{vmatrix} 1 \\ 20 \end{vmatrix}$			which requires grievance
21			procedure.
22			
23		¶ 17 (Erhardt Decl.) "Does not consider,	Calls for Legal Conclusion
		to fall within the scope of the internal	Cuito for Legar Conclusion
24		dispute resolution."	Vague and Ambiguous.
25			Granular internal policy of the company.
26			panj.
27			<u>Hearsay</u>
28			Out of court statement (what the
	EVIDENTIA	ARY OBJECTIONS TO AND REQUEST TO STRIKE PORTION	S OF THE DEFENDANTS' DECLARATIONS 2

1			Career Manual does) offered to prove the truth of the matter
2			asserted (that it somehow didn't
3			apply to Plaintiffs'
4			circumstances).
5			Best Evidence Rule
6			What the Career Manual and
7			DA provide speaks for itself in
8			the document. The DA incorporates the Career Manual
9			which requires grievance
10			procedure.
11			
12		¶ 18 (Erhardt Decl.) "have been handled	Calls for Legal Conclusion
13		differently."  "subject to arbitration"	Subject to arbitration.
14			Variation and Ambient
15			Vague and Ambiguous. "handled differently."
16			<u>Hearsay</u>
17			Out of court statement (what the
18			Career Manual does) offered to
19			prove the truth of the matter
20			asserted (that it somehow didn't apply to Plaintiffs'
21			circumstances).
22			Best Evidence Rule
23			
24			What the Career Manual and DA provide speaks for itself in
25			the document. The DA
26			incorporates the Career Manual which requires grievance
27			procedure.
28			
	<del> </del>	l	1

1	¶ 19 (Erhardt Decl.) "was and remain	s Calls for Legal Conclusion
2	mutual"	"Remains mutual."
3	¶ 19 (Erhardt Decl.) "Does not set out any fees, limit the scope of arbitration	
5	shorten any limitation"	<u>Hearsay</u>
6		Out of court statement (what the
7		Career Manual does) offered to
8		prove the truth of the matter asserted (that it somehow didn't
9		apply to Plaintiffs' circumstances).
10		circumstances).
11		Calls For Speculation Lack of Foundation
12		1 oundation
13		As to who this applies to.
14		Best Evidence Rule
15		What the Career Manual and
16		DA provide speaks for itself in
17		the document. The DA incorporates the Career Manual
18		which requires grievance procedure. Document speaks
19		for itself.
20		In fact, the career manual
21		expressly shortens the statute of
22		limitation.
23 24	¶ 21 (Erhardt Decl.) "not a condition	Calls for Legal Conclusion
25	precedent"	Hearsay
26		
27		Out of court statement (what the Career Manual does) offered to
28		prove the truth of the matter
_0		asserted (that it somehow didn't

1			apply to Plaintiffs'
2			circumstances).
3			D (E:1 D1
4			Best Evidence Rule
5			What the Career Manual and
6			DA provide speaks for itself in the document. The DA
7			incorporates the Career Manual
8			which requires grievance procedure. Document speaks
9			for itself.
10			Distribution Agreement states
11			this procedure is a condition.
12		¶ 22 "Career Manual Does not apply to	Calls for Legal Conclusion
13		the dispute." "Instead, a distributor is required to pursue arbitration"	Hearsay
14			
			Out of court statement (what the Career Manual does) offered to
15			prove the truth of the matter
16			asserted (that it somehow didn't
17			apply to Plaintiffs' circumstances).
18			
19			Best Evidence Rule
20			
21			What the Career Manual and
22			DA provide speaks for itself in the document. The DA
23			incorporates the Career Manual
24			which requires grievance procedure. Document speaks
25			for itself.
26			Distribution Agreement states
27			this procedure is a condition.
28		All Exhibits Attached to Erhardt Decl.	Authenticity Based on the fact this is not the
	l -		

1			Career Manual Plaintiff Yang
2			had, it calls into question every exhibit attached to the
3			Declaration based on
4			authenticity. Discovery is required on all of these issues.
5		1	required on an of these issues.
6			Respectfully submitted,
7			
8	Date:	October 26, 2017	LINDEMANN LAW FIRM, APC BLAKE J. LINDEMANN
9			By: /s/ Blake J. Lindemann
10			Blake J. Lindemann
11			ATTORNEYS FOR PLAINTIFFS CHUANJIE YANG, OLLIE LAN, AND LIU LIU
12			
13	Date:	October 26, 2017	LAW OFFICE OF DAREN M. SCHLECTER
14			DAREN M. SCHLECTER
15			By: /s/ Daren M. Schlecter
16			Daren M. Schlecter ATTORNEYS FOR PLAINTIFFS
17			CHUANJIE YANG, OLLIE LAN, AND LIU LIU
18			AND LIU LIU
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Pursuant to Local Civil Rule 5-4.3.4(a)(2)(i), the filing attorney certifies that all other signatories listed, and on whose behalf this filing is submitted, concur in this filing's content and have authorized its filing. LINDEMANN LAW FIRM, APC BLAKE J. LINDEMANN October 26, 2017 Date: By: /s/ Blake J. Lindemann Blake J. Lindemann ATTORNEYS FOR PLAINTIFFS CHUANJIE YANG, OLLIE LAN, AND LIU LIU