

1 meaningful and specific fashion (for example, "personnel records,"
2 "medical records," or "financial information," etc.). Here, the parties
3 define confidential information as "any non-public Material that such
4 persons produce in the course of Litigation that such Producing Person
5 believes in good faith to contain Confidential Material." (Protective
6 Order at 3, ¶ 6). This definition could arguably include every item of
7 information generated by either party, if they have not provided such
8 information to the public. As such, the definition is overbroad. The
9 parties may submit a revised stipulated protective order, but must
10 correct this deficiency.

11
12 Second, the Court cannot agree that material filed in this action
13 will be designated by counsel as "SUBJECT TO PROTECTIVE ORDER,"
14 (Protective Order at 11, ¶ 15), because this designation might suggest
15 that the Court has made a determination about whether particular
16 material fits within the categories described by a Protective Order
17 entered in this case. If the parties wish to designate material as
18 confidential, they can mark documents "confidential" but should not
19 indicate that the Court has also reached a decision about the nature of
20 the documents.

21
22 Third, the Court cannot agree to the procedure the parties propose
23 for the filing of documents under seal. (Protective Order at 11, ¶ 15;
24 15, ¶ 19(c)). The filing and disclosure of confidential court records
25 must comply with the Central District's Local Rule 79-5. If
26 confidential material is included in any documents to be filed in Court,
27 such documents shall be accompanied by an application, pursuant to Local
28 Rule 79-5.1, to file the documents - or the confidential portion thereof

1 - under seal. The application shall be directed to the judge to whom
2 the documents are directed. Pending the ruling on the application, the
3 documents or portions thereof subject to the sealing application shall
4 be lodged under seal. Local Rules 79-5.2 and 79-5.3 govern the
5 disclosure of confidential court records and Local Rule 79-5.4 sets out
6 the parties' responsibility to redact or exclude personal identifiers.

7
8 Finally, the proposed Protective Order fails to include an adequate
9 statement of good cause. Foltz v. State Farm Mut. Auto Ins. Co., 331
10 F.3d 1122, 1130 (9th Cir. 2003) (court's protective order analysis
11 requires examination of good cause) (citing Phillips v. Gen. Motors
12 Corp., 307 F.3d 1206, 1210-11, 1212 (9th Cir. 2002); San Jose Mercury
13 News, Inc. v. United States Dist. Court, 187 F.3d 1096, 1102 (9th Cir.
14 1999); Beckman Indus., Inc. v. Int'l Ins. Co., 966 F.2d 470, 476 (9th
15 Cir. 1992).

16
17 The Court may only enter a protective order upon a showing of good
18 cause. Kamakana v. City and County of Honolulu, 447 F.3d 1172, 1176
19 (9th Cir. 2006) (parties must make a "particularized showing" under Rule
20 26(c)'s good cause showing for court to enter protective order);
21 Phillips, 307 F.3d at 1210-11 (Rule 26(c) requires a showing of good
22 cause for a protective order); Makar-Wellbon v. Sony Electronics, Inc.,
23 187 F.R.D. 576, 577 (E.D. Wis. 1999) (even stipulated protective orders
24 require good cause showing).

1 In any revised stipulated protective order submitted to the Court,
2 the parties must include a statement demonstrating good cause for entry
3 of a protective order pertaining to the documents or information
4 described in the order. The paragraph containing the statement of good
5 cause should be preceded by a heading stating: "GOOD CAUSE STATEMENT."
6 **The parties shall articulate, for each document or category of documents**
7 **they seek to protect, the specific prejudice or harm that will result**
8 **if no protective order is entered. Foltz, 331 F.3d at 1130 (citations**
9 **omitted).** The parties may submit a revised Stipulation and [Proposed]
10 Protective Order for the Court's consideration.

11
12 Finally, the Court reminds the parties that all future discovery
13 documents filed with the Court shall include the following in the
14 caption: "[Discovery Document: Referred to Magistrate Judge Suzanne H.
15 Segal]."

16
17 IT IS SO ORDERED.

18
19 DATED: February 8, 2011

20
21 /s/
22 _____
23 SUZANNE H. SEGAL
24 UNITED STATES MAGISTRATE JUDGE
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