

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

THEODORA TO ORINGHER
COUNSELORS AT LAW

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

SOUTHERN CALIFORNIA
REGIONAL RAIL AUTHORITY, a
joint powers authority,

Plaintiff,

v.

HYUNDAI ROTEM COMPANY, a
South Korean corporation; RAUL V.
BRAVO + ASSOCIATES, INC., a
Virginia corporation; and DOES 1
through 10,

Defendants.

Case No. 16-cv-08042-JAK (JEMx)

Hon. John A. Kronstadt

**[PROPOSED] ORDER PURSUANT
TO FED. R. EVID. 502(d)**

DISCOVERY MATTER

[Fed R. Evid. 502(d)]

Hon. John E. McDermott
United States Magistrate Judge

Action Filed: Sept. 30, 2016
Trial Date: none set

AND RELATED COUNTERCLAIMS.

1 The Court has reviewed the Stipulation and [Proposed] Order Pursuant to
2 Fed. R. Evid. 502(d) (“Stipulation”) submitted jointly by Plaintiff and Counter-
3 Defendant Southern California Regional Rail Authority (“Metrolink”), Defendant
4 and Counter-Claimant Hyundai Rotem Company (“Hyundai”) and Defendant Raul
5 V. Bravo + Associates, Inc. (“Raul Bravo”) (individually, each a “Party” and
6 collectively, the “Parties”)) and, for good cause, the Court approves the Stipulation
7 and enters the following Order:

8 1. Pursuant to Fed. R. Evid. 502(d), a Party’s inadvertent disclosure or
9 production of any documents or information in this proceeding shall not, for the
10 purposes of this proceeding or any other proceeding in any other court, constitute a
11 waiver by that Party of any privilege or protection applicable to those documents,
12 including the attorney-client privilege, work product protection and any other
13 privilege or protection recognized by law. The provisions of Fed. R. Evid. 502(b)
14 are inapplicable to the production of documents or information under this
15 Stipulation and [Proposed] Order. Specifically there shall be no waiver if a Party
16 discloses privileged or protected information inadvertently or otherwise, regardless
17 of whether the Party took reasonable steps to prevent the disclosure or to rectify the
18 error.

19 2. Any Party receiving any such inadvertently produced documents or
20 information shall, within five (5) calendar days of receipt of a written request (a)
21 identifying the document(s) or information that was inadvertently produced, and (b)
22 specifying the basis for the right to withhold such document(s) or information with
23 the requisite specificity justifying the asserted basis for privilege or protection,
24 return them to the producing Party or provide written notice to the producing Party
25 that they have been destroyed. Further, the receiving Party shall delete any version
26 of the documents or information it maintains and make no use of the information
27 contained therein, regardless of whether the receiving Party agrees with the claim of
28 privilege and/or work product protection.


1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

3. Nothing in this Stipulation and [Proposed] Order shall prevent a receiving Party from challenging the privilege or protection asserted by the producing Party by making an appropriate application to the Court. Pursuant to Fed. R. Civ. P. 26, the producing Party bears the burden of establishing the privilege or protection of all such challenged documents.

4. Disclosure of information or documents by the receiving Party before the producing Party designates the information as protected shall not be deemed a violation of this Stipulation and [Proposed] Order.

IT IS SO ORDERED:

DATED: October 25, 2017



Hon. John E. McDermott
United States Magistrate Judge