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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CHARLES NAGEL,

Plaintiff,

No. 2:09-cv-02620 FCD KJN

v.

ORDER

ADI SHUTTLE GROUP, LLC,
and DOES 1 through 5, inclusive,

Defendant.

_____/

Presently before the undersigned is the parties’ Stipulation and [Proposed] Protective Order. (Dkt. No. 15.) At the present time, the undersigned will not approve the proposed stipulated protective order, but will consider a revised proposed stipulated protective order that addresses the court’s concerns identified below.

First, provision F.3 of the proposed stipulated protective order states: “This order will be governed by California law.” (Dkt. No. 15 at 6:3.) In general, protective orders and discovery in general are governed by the Federal Rule of Civil Procedure. See Fed. R. Civ. P. 26. As written, provision F.3 is unclear with respect to the scope of the application of California law to the protective order sought. The undersigned will not approve the stipulated protective order with the current version of provision F.3 in place because, at a minimum, it is susceptible to a reading that the parties are attempting to stipulate to the inapplicability of the Federal Rules

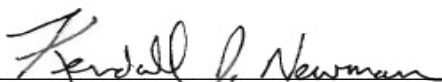
1 of Civil Procedure. The undersigned recommends that the parties reconsider the scope of
2 provision F.3 and either: (1) strike provision F.3; or (2) redraft provision F.3 in a manner that
3 more clearly and appropriately describes how the protective order sought by the parties will be
4 governed by California law.

5 Second, it is unclear from the proposed stipulated protective order whether the
6 parties intend that the marking of material as “confidential” pursuant to the protective order
7 would automatically result in an order sealing such materials filed with the court. The parties are
8 required to file a request to seal in accordance with the Eastern District Local Rules, including
9 Local Rule 141, and the Federal Rules of Civil Procedure. The undersigned recommends that the
10 parties consider adding a provision to this effect in any revised proposed stipulated protective
11 order.

12 Based on the foregoing, the undersigned denies the parties’ request for approval of
13 the proposed stipulated protective order. However, this denial is without prejudice to the filing a
14 revised stipulation and proposed protective order that addressed the concerns highlighted above.

15 IT IS SO ORDERED.

16 DATED: April 6, 2010

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20 KENDALL J. NEWMAN
21 UNITED STATES MAGISTRATE JUDGE
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