

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

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

WILLIAM LANDES,

Plaintiff,

No. 2:12-cv-1252 MCE KJN

v.

SKIL POWER TOOLS, et al.,

Defendants.

ORDER

Presently before the court is the parties’ proposed Stipulated Protective Order, which seeks approval of an order governing the treatment of discovery materials that the parties intend to designate as “Confidential Materials.” (Dkt. No. 38.) 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, certain portions of the proposed stipulated protective order suggest that the marking of material as “Confidential Materials” pursuant to the protective order would automatically result in the sealing of such materials filed with the court. (See e.g. Dkt. No. 38, ¶¶ 4e, 6.) The sealing of documents is never automatic, and the parties are required to file a request to seal in accordance with the Eastern District Local Rules, including Local Rule 141, and the Federal Rules of Civil Procedure. The undersigned recommends that the parties consider adding

1 a provision to that effect in any revised proposed stipulated protective order.


2           Second, paragraph 15 of the proposed stipulated protective order also appears to  
3 outline obligations by the Clerk of Court to return documents filed under seal that may be  
4 inconsistent with Local Rule 141. Again, the undersigned recommends that this paragraph be  
5 revised to be consistent with Local Rule 141.

6           Finally, the parties are advised that the undersigned is strongly disinclined, absent  
7 some compelling reason, to approve any provision that creates retained jurisdiction over a  
8 stipulated protective order and related disputes after termination of the action. Local Rule  
9 141.1(f) provides: “Once the Clerk has closed an action, unless otherwise ordered, the Court will  
10 not retain jurisdiction over enforcement of the terms of any protective order filed in that action.”  
11 E.D. Cal. L.R. 141.1(f).

12           Accordingly, IT IS HEREBY ORDERED that the parties’ proposed stipulated  
13 protective order (dkt. no. 38) is NOT APPROVED, but without prejudice to the refile of a  
14 revised proposed stipulated protective order that sufficiently addresses the court’s concerns  
15 outlined above.

16           IT IS SO ORDERED.

17 DATE: February 21, 2013

18  
19   
20 KENDALL J. NEWMAN  
21 UNITED STATES MAGISTRATE JUDGE  
22  
23  
24  
25  
26