

**BERMAN DEVALERIO**

July 15, 2009

**VIA ELECTRONIC FILING AND MESSENGER**

Hon. Bernard Zimmerman  
United States District Court  
450 Golden Gate Avenue  
Courtroom G, 15<sup>th</sup> Floor  
San Francisco CA 94102

Re: *In re LDK Solar Securities Litigation*, C-07-05182-WHA (BZ)

Dear Judge Zimmerman:

Plaintiffs are in receipt of the Court's Fifth Discovery Order [#269], dated June 9, 2009, and the Transcript of Proceedings before your Honor on June 8, 2009. The purpose of this letter is to request that the Court set an expedited briefing schedule to resolve a matter of law; specifically, the extent to which the exchange of documents or communications between LDK and its Independent Audit Committee (including the Independent Audit Committee's counsel, Simpson Thacher & Bartlett, LLP ("Simpson Thacher"), and the consultants retained by Simpson Thacher) operates as a waiver. *See* Tr. 6/8/09 at 33 ("So if the parties can tee up, for example, a question of whether certain conduct by the defendant constitutes a selective waiver, then I will go ahead and resolve that issue."). The parties have conferred and, subject to the Court's approval, have agreed to the following briefing schedule and reduced page limits: Plaintiffs' opening brief not to exceed 10 pages due July 22, 2009; Defendants' Opposition brief not to exceed 12 pages, due August 3, 2009; and Plaintiffs' reply not to exceed 5 pages due August 7, 2009. Defendants request oral argument; plaintiffs are willing to submit the matter on the pleadings with no oral argument by any party.

With the exception of the waiver issue as it pertains to the production of documents to LDK's Independent Audit Committee and its counsel and consultants, the parties have reached satisfactory resolutions among themselves as to the other disputed issues that were the subject of the June 8, 2009 conference. In an effort to resolve the waiver issue, the parties have engaged in an extensive meet and confer process. This involved the exchange of spreadsheets identifying areas of dispute in the privilege log; a formal teleconference, before a Court Reporter on June 30, 2009; an informal exchange of authority by e-mail on Thursday, July 2, 2009; and, an informal teleconference on Friday afternoon, July 10, 2009. Despite this, no agreement was reached.

Plaintiffs wish to apprise the Court that on July 8, 2009, Judge Alsup issued a Third Amended Case Management Order directing that five depositions be taken in Hawaii between August 10, 2009 and August 14, 2009; and that fifteen depositions be taken in Hong Kong between September 7, 2009 and September 25, 2009. The parties are acutely mindful of both the



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Court's Order and the June 8, 2009 Transcript requiring us to place any such motion on the Court's regular calendar. Yet, after checking this Court's calendar and learning that the next available law and motion date is September 23, 2009, Plaintiffs are compelled to make this request to establish the status of the documents in question in advance of deposition practice.

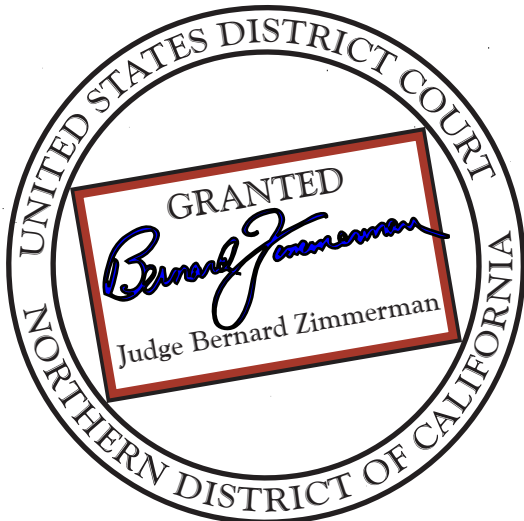
As a collateral matter responding to the Court's Fifth Discovery Order, I wanted to inform the Court that in response to the requirement that the parties "attempt to agree on how to interpret the requirement in Judge Alsup's order that the producing party confirm 'that no unauthorized persons have received' the communications sought to be protected, keeping in mind that each side will have to abide by the same interpretation," the parties did confer and have exchanged letters to the effect that appropriate steps have been taken to ensure the confidentiality of communications listed on the parties' respective privilege logs; and that no unauthorized persons have received such communications.

Plaintiffs apologize to the Court for the inconvenience caused by seeking to have this matter heard and decided on an expedited basis.

Very truly yours,

Christopher T. Heffelfinger

cc: John Tang, Esq.  
Matthew B. Kaplan, Esq.



Dated: July 20, 2009

Request GRANTED  
and schedule  
ADOPTED.