

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

LEGAL ADDITIONS LLC,  
Plaintiff,  
v.  
JEROME KOWALSKI, et al.,  
Defendants.

Case No. 08-cv-02754 EMC (NC)

## **ORDER RE: DISCOVERY DISPUTE**

Re: Dkt. No. 281

This case was referred to this Court for all discovery purposes. Dkt. No. 282. In December 2010, Legal Additions obtained a judgment against defendants pursuant to a stipulation. Dkt. No. 281 at 1. Subsequently, the parties engaged in post-judgment discovery in connection with the enforcement of the judgment, which included defendants' production of financial documents in November 2011 ("the November 2011 documents"). *Id.* On April 12, 2013, the parties filed a joint discovery brief seeking resolution of their dispute regarding the application of the stipulated protective order in this case to the November 2011 documents. *Id.* The parties disagree about (1) whether the stipulated protective order applies to the November 2011 documents, (2) whether defendants properly designated the documents "Confidential" by so stating in the cover letter accompanying the production but not marking each individual page, (3) whether there is a proper basis for the confidentiality designations, and (4) whether Legal Additions may use or disclose the

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1 documents in connection with its efforts to enforce the judgment. The Court finds this  
2 matter suitable for decision without oral argument. Civil L.R. 7-1(b). Based on the parties'  
3 joint letter brief, the Court orders as follows:

4 1. The Court finds that the stipulated protective order, issued by the Court on  
5 November 16, 2009, Dkt. No. 92, applies to the November 2011 documents.

6 2. The November 2011 documents were produced by defendants in digital form  
7 on a CD. Dkt. No. 281 at 1. The CD contains “several years (381 MB; thousands of pages)  
8 of bank statements, credit account statements, dunning letters, tax-related documents (e.g.,  
9 K-1), and court filings.” *Id.* The CD was accompanied by a cover letter stating in part  
10 “Although it has been impracticable to physically label each of the documents separately as  
11 ‘Confidential,’ all of the documents on this disk are hereby deemed to be ‘Confidential,’  
12 within the ambit of the stipulated protective order(s) in this action.” *Id.* The Court finds  
13 that, under these circumstances, the cover letter sufficiently designated the documents on  
14 the CD as “Confidential” under the stipulated protective order, and defendants did not  
15 waive the protections of the stipulated protective order by failing to affix a label to each  
16 individual page.

17 3. To the extent Legal Additions challenges any confidentiality designations as  
18 unjustified or made for an improper purpose, that issue is not ripe for adjudication by the  
19 Court. The joint letter brief indicates that defendants are willing to reconsider the  
20 designations if plaintiff identifies specific documents, the intended recipients, and the  
21 purpose of the disclosure. Dkt. No. 281 at 1, 3. Legal Additions’ challenge to the  
22 confidentiality designations must comply with the stipulated protective order, and must  
23 identify the protected material at issue, set forth in detail the basis for the challenge, and  
24 meet and confer with the designating party, allowing that party the opportunity to review  
25 the material and to provide a justification for the designation. *See* Dkt. No. 92 ¶¶ 6.2, 6.3.  
26 If, after meeting and conferring, the parties are unable to resolve their dispute, they may  
27 submit a joint discovery letter brief in accordance with the Court’s standing order. *See*  
28 Mag. Judge N. Cousins, Civil Standing Order, updated Aug. 24, 2012. The Court finds that,

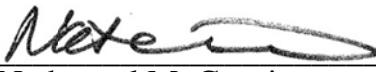
1 under the stipulated protective order, Legal Additions would bear the burden of persuasion  
2 in challenging the confidentiality designations of the November 2011 documents. *See* Dkt.  
3 No. 92 ¶ 6.3.

4       4. Legal Additions may use the November 2011 documents for the purpose of  
5 enforcing the judgment; however, any such use and/or disclosure of the documents must  
6 otherwise comply with the terms of the stipulated protective order. To the extent the parties  
7 dispute whether any specific use and/or disclosure is permitted by the stipulated protective  
8 order, that dispute is not ripe for resolution. The parties must meet and confer on that issue  
9 before submitting their dispute to the Court by joint letter brief.

10       Any party may object to this nondispositive pretrial order within 14 days of the filing  
11 date of this order. *See* Civ. L.R. 72-2.

12       IT IS SO ORDERED.

13       Date: April 30, 2013

  
Nathanael M. Cousins  
United States Magistrate Judge

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