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28IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIARICK JAMES, *et al.*,

No. C 11-1613 SI

Plaintiffs,

**ORDER DENYING PLAINTIFFS'
MOTION FOR RELIEF FROM
NONDISPOSITIVE PRETRIAL ORDER
OF MAGISTRATE JUDGE DATED
FEBRUARY 10, 2014**

v.

UMG RECORDINGS, INC.

Defendant.

Plaintiffs have filed a motion for relief from the February 10, 2014 order issued by Magistrate Judge James. In that order, Judge James held that defendant had met its burden to show that the attorney client privilege applied to a number of documents that plaintiffs have sought in discovery.

Plaintiffs assert that Judge James erred because she found that the privilege applied based on defendant's detailed privilege log and not on the basis of any affidavits or evidence submitted by defendant. However, the Ninth Circuit has "previously recognized a number of means of sufficiently establishing the [attorney client] privilege, one of which is the privilege log approach." *In re Grand Jury Investigation*, 974 F.2d 1068, 1071 (9th Cir. 1992). The cases cited by plaintiffs do not hold that affidavits are required in order to determine whether the attorney client privilege applies. Further, as defendant notes, defendant sought to submit declarations to Judge James in connection with this discovery dispute and plaintiffs objected. *See* Docket No. 176 at 4.

Plaintiffs also contend that Judge James erroneously rejected plaintiffs' evidence (the Kenswil and Hoffman deposition testimony), which plaintiffs assert sufficiently rebutted the claim of privilege. The Court finds no error in Judge James's assessment of that testimony.

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Accordingly, plaintiffs' motion is DENIED. This order resolves Docket No. 193.

IT IS SO ORDERED.

Dated: April 7, 2014



SUSAN ILLSTON
United States District Judge