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5 IN THE UNITED STATES DISTRICT COURT
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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8 BRADFORD TECHNOLOGIES, INC,

No. C 11-04621 EDL

9 Plaintiff,

**ORDER CONTINUING HEARING ON
MOTIONS TO DISMISS AND INITIAL
CASE MANAGEMENT CONFERENCE**

10 v.

11 NCV SOFTWARE.COM, et al.,

12 Defendants.
13 _____/

14 Defendants Metro National Financial, LLC and Karma Technologies have filed motions to
15 dismiss that are noticed for hearing before the undersigned on December 13, 2011. As the Court
16 advised the parties in the Order entered on November 22, 2011, the Court requires the consent of all
17 parties who have been served to conduct the proceedings on the pending motions to dismiss. On
18 December 8, 2011, Plaintiff filed a status report indicating that service is still being attempted on
19 two defendants, that one defendant, Biggers, has been served but has not yet appeared, and one
20 defendant has not been served and will be dismissed as a defendant. Doc. no. 41. Plaintiff and the
21 appearing Defendants have filed consent to proceed before a United States Magistrate Judge, but no
22 consent or declination has been filed by the other Defendant who has been served but not yet
23 appeared. With respect to the Defendants who have not been served, although they are not
24 considered “parties” for purposes of obtaining consent under 28 U.S.C. § 636(c), see Hard Drive
25 Productions, Inc. v. Does 1-188, 2011 WL 3740473, *5 (N.D.Cal. 2011) (citing Neals v. Norwood,
26 59 F.3d 530, 532 (5th Cir. 1995)), it would be prudent for the Court to defer ruling on the pending
27 dispositive motions until service is complete or it can be determined whether the non-appearing
28 Defendants will file consent or declination to proceed before the undersigned. As a cautionary

1 measure, the Court hereby continues the hearing on the pending motions to dismiss from December
2 13, 2011, to January 17, 2012 at 9:00 a.m.

3 The initial case management conference is also continued from January 3, 2012 to January
4 17, 2012 at 9:00 a.m. The parties must file a joint case management statement by January 10, 2012.

5 **IT IS SO ORDERED.**

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7 Dated: December 8, 2011

Elizabeth D. Laporte

ELIZABETH D. LAPORTE
United States Magistrate Judge

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