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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

No. CV-09-08162-PHX-GMS

ORDER

In re: Allstate Life Insurance Company
Litigation

Pending before the Court are five Stipulations to File Under Seal Certain Exhibits attached to various Motions. (Docs. 676, 683, 698, 700, 722.) For the reasons discussed below, the Court denies all five motions without prejudice.

The parties in this case have stipulated to a Protective Order regarding any information, regardless of how it is generated, stored, or maintained, and any tangible things for which a party can establish good cause as maintaining as confidential pursuant to Rule 26(c) of the Federal Rules of Civil Procedure. (Doc. 438.) The Protective Order sets out a procedure by which a party may label as confidential any information or object it seeks to protect. (*Id.* at 4–6.) However, as the Court noted in an earlier order, merely designating something as confidential does not constitute a compelling reason to seal it. (Doc. 604.)

Because of the strong presumption in favor of public access to court documents, a

1 party must set forth compelling reasons to justify sealing a judicial record. *Kamakana v.*
2 *City and Cnty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006). This standard means
3 that the party seeking to seal must “articulate compelling reasons supported by specific
4 factual findings that outweigh the general history of access and the public policies
5 favoring disclosure.” *Id.* at 1178–79 (internal quotations omitted).

6 The Underwriters seek to file Exhibits 8–25 to their Motion to Exclude Report and
7 Testimony of William Rhoda under seal. (Doc. 676.) They assert that each of the Exhibits
8 “contains sensitive information concerning the financial performance of events centers
9 and similar entities that are not parties to this case.” (*Id.* at 5.) This vague description
10 does not meet the Ninth Circuit’s requirement of “specific factual findings that outweigh
11 the general history of access and the public policies favoring disclosure.” *Kamakana*, 447
12 F.3d at 1178. Thus, the Stipulation is denied without prejudice. Similarly, the
13 Underwriters seek to file Exhibits 6 and 36–39 to the Motion for Summary Judgment
14 under seal. (Doc. 683.) The claim that the documents “contain[] internal information
15 concerning Wells Fargo’s corporate practices that is not publically available.” Again,
16 they fail to meet the standard set forth in *Kamakana*. This Stipulation is also denied
17 without prejudice.

18 All Defendants seek to file certain exhibits under seal that are to be attached to the
19 Joint Statement of Facts in Support of Their Separate Motions for Summary Judgment.
20 (Doc. 698.) Some of these exhibits were marked as confidential when produced by
21 Allstate; others discuss documents that were marked confidential by Allstate. (*Id.* at 4.) In
22 addition, the parties claim that the documents “contain sensitive information concerning
23 Allstate’s corporate practices. This justification is not specific enough to satisfy the
24 *Kamakana* standard; thus, the Stipulation is denied without prejudice.

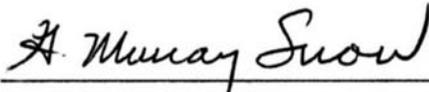
25 The Defendants further seek to file Exhibits 53 and 87 under seal as attachments to
26 the Joint Statement of Facts. (Doc. 700.) The asserted reason for seeking to file under seal
27 is that these Exhibits were produced by Global and marked “Confidential.” (*Id.* at 3.)
28 According to the Stipulation, Global has obtained new counsel since the time that the

1 documents were produced, and it is now unclear why the documents were originally
2 designated as confidential. The parties wish to file them under seal “in an abundance of
3 caution.” (*Id.*) However, “[a] ‘confidential designation’ by a party is not in and of itself a
4 compelling reason to seal as required by 9th Circuit law.” (Doc. 604.) This Stipulation is
5 therefore denied without prejudice.

6 Similarly, Kutak Rock seeks to file under seal its Unredacted Motion for Summary
7 Judgment, Unredacted Statement of Facts, and Exhibits 64–69. (Doc. 722.) The parties
8 assert that this information contains “confidential information relating to Wells Fargo’s
9 policies and procedures.” (*Id.* at 2.) They further assert that Exhibits 64–69 were
10 designated “Confidential” by Wells Fargo. These reasons were rejected as insufficient to
11 satisfy *Kamakana*’s standard for sealing judicial records above. Thus, this Stipulation is
12 also denied without prejudice.

13 **IT IS THEREFORE ORDERED** that the Parties’ Stipulations to File Under Seal
14 (Docs. 676, 683, 698, 700, 722) are **DENIED WITHOUT PREJUDICE**.

15 Dated this 21st day of March, 2013.

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19 G. Murray Snow
20 United States District Judge
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