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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

AURORA FIGUEROA, et al.
Plaintiffs,
v.
CITY OF FRESNO, et al.
Defendants.

No. 1:15-cv-00349-DAD-BAM

ORDER DENYING REQUEST TO SEAL
DOCUMENTS

(Doc. No. 78)

On November 29, 2016, plaintiffs filed their opposition to defendants’ motion for summary judgment, accompanied by a request for leave to file certain documents relating to that opposition under seal. (*See* Doc. Nos. 73, 78.) Specifically, plaintiffs seek to file under seal portions of their opposition to the motion for summary judgment, as well as seven exhibits attached to the opposition in their entirety. (Doc. No. 78.) For the following reasons, the request to seal as presented is denied without prejudice to its renewal.

LEGAL STANDARD

All documents filed with the court are presumptively public. *San Jose Mercury News, Inc. v. U.S. Dist. Court*, 187 F.3d 1096, 1103 (9th Cir. 1999) (“It is well-established that the fruits of pretrial discovery are, in the absence of a court order to the contrary, presumptively public.”). Pursuant to Rule 5.2(d) of the Federal Rules of Civil Procedure, a court “may order that a filing be made under seal without redaction.” However, even if a court orders such a filing, it may

1 “later unseal the filing or order the person who made the filing to file a redacted version for the
2 public record.” Fed. R. Civ. P. 5.2(d). “Historically, courts have recognized a ‘general right to
3 inspect and copy public records and documents, including judicial records and documents.’”
4 *Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (quoting *Nixon v.*
5 *Warner Commc’ns, Inc.*, 435 U.S. 589, 597 & n.7 (1978)).

6 Two standards generally govern requests to seal documents. *Pintos v. Pac. Creditors*
7 *Ass’n*, 605 F.3d 665, 677 (9th Cir. 2010).

8 [J]udicial records attached to dispositive motions [are treated]
9 differently from records attached to non-dispositive motions. Those
10 who seek to maintain the secrecy of documents attached to
11 dispositive motions must meet the high threshold of showing that
“compelling reasons” support secrecy. A “good cause” showing
under Rule 26(c) will suffice to keep sealed records attached to
non-dispositive motions.

12 *Kamakana*, 447 F.3d at 1180 (citations omitted). Under the “compelling reasons” standard
13 applicable to dispositive motions such as the one at issue here,

14 [T]he court must conscientiously balance the competing interests of
15 the public and the party who seeks to keep certain judicial records
16 secret. After considering these interests, if the court decides to seal
17 certain judicial records, it must base its decision on a compelling
reason and articulate the factual basis for its ruling, without relying
on hypothesis or conjecture.

18 *Id.* at 1178–79 (internal quotation marks, omissions, and citations omitted). The party seeking to
19 seal a judicial record bears the burden of meeting the “compelling reasons” standard. *Id.* at 1178;
20 *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003).

21 “In general, ‘compelling reasons’ sufficient to . . . justify sealing court records exist when
22 such ‘court files might . . . become a vehicle for improper purposes,’ such as the use of records to
23 gratify private spite, promote public scandal, circulate libelous statements, or release trade
24 secrets.” *Id.* at 1179 (quoting *Nixon*, 435 U.S. at 598). “The mere fact that the production of
25 records may lead to a litigant’s embarrassment, incrimination, or exposure to further litigation
26 will not, without more, compel the court to seal its records.” *Id.* “The ‘compelling reasons’
27 standard is invoked even if the dispositive motion, or its attachments, were previously filed under
28 seal or protective order.” *Kamakana*, 447 F.3d at 1178–79.

1 showing required by applicable law.” L.R. 141(a). Here, that showing must satisfy the
2 “compelling reasons” standard. *Kamakana*, 447 F.3d at 1178–80. Plaintiffs here have not made
3 such a showing here.

4 Accordingly, because plaintiffs have failed to meet their burden of demonstrating a
5 compelling reason to file these documents under seal, their motion seeking leave to do so is
6 denied without prejudice to a properly supported renewal.

7 **CONCLUSION**

8 For the reasons set forth above,

- 9 1. Plaintiffs’ request to seal (Doc. No. 78) is denied without prejudice to the refiling of a
10 request which makes the required showing of compelling reasons for the documents to
11 be filed under seal; and
12 2. Pursuant to Local Rule 141(e)(1), the Clerk of the Court is directed to return to the
13 parties the documents for which sealing has been denied.

14 IT IS SO ORDERED.

15 Dated: December 5, 2016

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18 UNITED STATES DISTRICT JUDGE
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