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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

E. & J. GALLO WINERY, doing business
as SAN JOAQUIN VALLEY
CONCENTRATES; G3 ENTERPRISES,
INC., doing business as DELAWARE G3
ENTERPRISES, INC.; and MCD
TECHNOLOGIES, INC.,

Plaintiffs,

v.

INSTITUUT VOOR LANDBOUW-EN
VISSERIJONDERZOEK; EIGEN
VERMOGEN VH INSTITUUT VOOR
LANDBOUW-EN
VISSERIJONDERZOEK; FLANDERS’
FOOD; and DOES 1-10,

Defendants.

No. 1:17-cv-00808-DAD-EPG

ORDER GRANTING PLAINTIFFS’
REQUEST TO SEAL DOCUMENTS

(Doc. Nos. 113, 114)

On October 2, 2018, plaintiffs filed a request to seal documents. (Doc. No. 113.) Therein, plaintiffs requested that portions of their opposition to the pending motion to dismiss be filed under seal. Simultaneously, plaintiffs filed their opposition, including redacted versions of the exhibits they sought to have sealed. (See Doc. No. 114.) The hearing on the pending motion to dismiss remains scheduled for October 16, 2018. (Doc. No. 111.)

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1 reason and articulate the factual basis for its ruling, without relying
2 on hypothesis or conjecture.

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

6 While the terms “dispositive” and “non-dispositive” motions are often used in this
7 context, the Ninth Circuit has clarified that the “compelling reasons” standard applies whenever
8 the motion at issue “is more than tangentially related to the merits of a case.” *Ctr. for Auto Safety*
9 *v. Chrysler Grp., LLC*, 809 F.3d 1092, 1101 (9th Cir. 2016). In some instances, the proposed
10 filing of documents under seal in connection with motions for preliminary injunction, for
11 sanctions, or in limine—though such motions are not dispositive—may be governed by the
12 “compelling reasons” test, predicated on the right of access and the need to “provide the public
13 with a more complete understanding of the judicial system and a better perception of its fairness.”
14 *Id.* at 1097–1101 (quoting *Leucadia, Inc. v. Applied Extrusion Techs., Inc.*, 998 F.2d 157, 161 (3d
15 Cir. 1993)). In keeping with this principle, requests to seal documents relating to motions for a
16 preliminary injunction have been found by the Ninth Circuit to “more than tangentially relate[] to
17 the merits” because success on the motion for a preliminary injunction would have resolved a
18 portion of the claims in the underlying complaint. *Ctr. for Auto Safety*, 809 F.3d at 1102.

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

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1 **DISCUSSION**

2 As explained in a prior order granting a previous request to seal (Doc. No. 108), this
3 request will be evaluated under the “compelling reason” standard because the motion to dismiss is
4 dispositive in that it is “more than tangentially related to the merits of a case.” *Ctr. for Auto*
5 *Safety*, 809 F.3d at 1102. Applying that standard, the court concludes that plaintiffs’ request to
6 seal should be granted.² Plaintiffs first seek to redact a small portion of Exhibit 1 to their
7 opposition, specifically the mailing address and email address of Domien De Paepe, an individual
8 employed by defendants. Significant privacy concerns militate in favor of redacting this
9 information. *See Kamakana*, 447 F.3d at 1179 (affirming magistrate judge’s ruling that home
10 addresses and social security numbers met the “compelling reason” standard). In addition,
11 plaintiffs seek to seal Exhibit 2 to their opposition in its entirety. According to a declaration
12 submitted by plaintiffs’ counsel Sanjeet Dutta, Exhibit 2 is a customer list, the disclosure of
13 which could lead to unfair harm to plaintiffs’ businesses. The undersigned has previously
14 recognized that compelling reasons exist to seal such lists. *Roadrunner Intermodal Servs., LLC v.*
15 *T.G.S. Transportation, Inc.*, No. 1:17-cv-01056-DAD-BAM, 2018 WL 432654, at *3 (E.D. Cal.
16 Jan. 16, 2018). Accordingly, Exhibit 2 will be ordered filed under seal in its entirety.

17 **CONCLUSION**

18 For the reasons set forth above, the court grants plaintiffs’ request to seal. (Doc. No. 113.)
19 The redacted versions of Exhibits 1 and 2 attached to plaintiffs’ opposition (Doc. Nos. 114-2,
20 114-3) shall remain on the court’s docket.

21 IT IS SO ORDERED.

22 Dated: October 11, 2018

23 
UNITED STATES DISTRICT JUDGE

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25 ² Although the court will grant plaintiffs’ request, the court notes that plaintiffs did not comply
26 with Local Rule 141. Without first obtaining leave of court, plaintiffs filed redacted versions of
27 the documents on the public docket. (Doc. Nos. 114-2, 114-3.) Subject to exceptions not
28 relevant here, “[d]ocuments may be sealed only by written order of the Court, upon the showing
required by applicable law.” L.R. 141(a). In all other circumstances, “[n]o other redactions are
permitted unless the Court has authorized the redaction.” L.R. 141(b). Failure to adhere to the
Local Rules may result in future requests being stricken.