

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DONALD HAYES ALBEE,

NO. CIV. S-09-1145 LKK/EFB

Plaintiff,

v.

O R D E R

CONTINENTAL TIRE NORTH
AMERICA, INC., An Ohio
Corporation, and FORD
MOTOR COMPANY, INC., a
Delaware Corporation,

Defendants.

_____/

On November 22, 2010, defendant Continental Tire North America Inc. ("Continental") filed an application to file Exhibit A to its motion to exclude plaintiff's retained expert, Troy Cottles, under seal. ECF No. 150. There is a strong presumption in favor of public access to documents filed in connection with dispositive motions, and this presumption weighs against sealing such documents. Kamakana v. City & County of Honolulu, 447 F.3d 1172, 1178 (9th Cir. 2006). In the context of a dispositive motion, "the district court must base its decision [to seal materials] on a compelling

1 reason and articulate the factual basis for its ruling, without
2 relying on hypothesis or conjecture." Foltz v. State Farm Mut.
3 Auto. Ins. Co., 331 F.3d 1122, 1135 (9th Cir. 2003).

4 For the foregoing reasons, the Court tentatively GRANTS
5 defendant Continental's application. Continental is cautioned,
6 however, that this sealing is tentative. Kamakana, 447 F.3d at
7 1186. The Court will revisit whether these documents should be
8 permanently sealed at a later time, when it is possible to perform
9 the fact specific analysis required by Foltz.

10 IT IS SO ORDERED.

11 DATED: November 30, 2010.

12

13

14



15

LAWRENCE K. KARLTON
SENIOR JUDGE
UNITED STATES DISTRICT COURT

16

17

18

19

20

21

22

23

24

25

26