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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, et al.,  
*ex rel.* LOYD F. SCHMUCKLEY, JR.,

Plaintiff,

v.

RITE AID CORPORATION,

Defendant.

No. 2:12-CV-01699-KJM-EFB

ORDER

Relator has filed a notice of request to seal, ECF No. 344, along with an in camera request for the sealing or redaction of the documents defendants seek to file in connection with their opposition to plaintiff's pending motion to amend. *See* ECF Nos. 318 and 318-2. Relators' filing is consistent with the procedures this court requires with respect to sealing requests, recognizing the burden to justify sealing or redaction rests with the person or party claiming confidentiality in the information covered by a request.

I. INTRODUCTION

Relator's motion asserts the documents covered by its motion contain information appropriated sealed or redacted under Federal Rule of Civil Procedure 5.2 and Local Rules 140 and 141, because they are employee pay stubs, including social security numbers, addresses, full names and birthdates. Each of these documents is submitted as evidence in support of

1 defendant's opposition to plaintiff's motion to join defendant subsidiaries. ECF No. 315. This  
2 court has reviewed defendant's motion and now GRANTS it for the following reasons.

3 II. DISCUSSION

4 The Federal Rules of Civil Procedure and the Eastern District of California Local  
5 Rules require the redaction of documents containing an individual's personal information, with  
6 the exception of the following: "(1) the last four digits of the social-security number and  
7 taxpayer-identification number; (2) the year of the individual's birth; (3) the minor's initials; and  
8 (4) the last four digits of the financial-account number." Fed. R. Civ. P. 5.2(a); Local Rule 140(a)  
9 (prohibits home addresses in addition to the prohibitions of Fed. R. Civ. P. 5.2(a)(1)). Both rules  
10 authorize the redaction of such information without a court order. Federal Rule of Civil  
11 Procedure 52(d) and Local Rule 141 provide for sealing of documents that qualify.

12 "[T]he courts of this country recognize a general right to inspect and copy public  
13 records and documents, including judicial records and documents." *Nixon v. Warner*  
14 *Communications*, 435 U.S. 589, 597 (1978) (footnotes omitted). While "the right to inspect and  
15 copy judicial records is not absolute," access in civil cases is properly denied for clearly  
16 justifiable reasons: to protect against "gratification of] private spite or promot[ion of] public  
17 scandal," or to preclude court dockets from becoming "reservoirs of libelous statements," or  
18 "sources of business information that might harm a litigant's competitive standing." *Id.* at 598  
19 (citations omitted). As the Ninth Circuit instructs, a "strong presumption in favor of access" to  
20 the record governs in a court of law unless the case or a part of it qualifies for one of the relatively  
21 few exceptions "traditionally [] kept secret," with secrecy allowed for good reasons. *Foltz v.*  
22 *State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1134–35 (9th Cir. 2003).

23 When a party moves to seal a record, the court looks to the underlying motion and  
24 determines whether it is "more than tangentially related to the merits of a case." *Ctr. for Auto*  
25 *Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1101 (9th Cir. 2016). If the motion is more than  
26 tangentially related to the merits of the case, a party seeking to seal the record must satisfy the  
27 "stringent" compelling reasons standard. *Id.* at 1096. Applying this standard, "a court may seal  
28 records only when it finds 'a compelling reason and articulate[s] the factual basis for its ruling,

1 without relying on hypothesis or conjecture,” and “then ‘conscientiously balance[s] the  
2 competing interests of the public and the party who seeks to keep certain judicial records secret.”  
3 *Id.* at 1096–97 (first alteration in original) (quoting *Kamakana v. City & Cty. of Honolulu*, 447  
4 F.3d 1172, 1179 (9th Cir. 2006)).

5           When a motion is unrelated or only tangentially related to the merits of the case,  
6 the good cause standard, which is an “exception” to the “presumptive” compelling reasons  
7 standard, applies. *Id.* at 1097–98. To establish good cause, a party must show “for each  
8 particular document it seeks to protect . . . that specific prejudice or harm will result” absent  
9 sealing. *See Foltz*, 331 F.3d at 1130 (citation omitted). “Broad allegations of harm,  
10 unsubstantiated by specific examples or articulated reasoning” will not satisfy the good cause  
11 standard. *Beckman Indus., Inc. v. Int’l Ins. Co.*, 966 F.2d 470, 476 (9th Cir. 1992).

12           The Eastern District of California has adopted rules to clarify procedures for  
13 parties’ compliance with the law reviewed above. Local Rule 141 provides that documents may  
14 be sealed only by a written order of the court after a party makes a particularized request to seal.  
15 E.D. Cal. L.R. 141(a). A mere request to seal is not enough under the local rules. Local Rule  
16 141(b) expressly requires that “[t]he ‘Request to Seal Documents’ shall set forth the statutory or  
17 other authority for sealing, the requested duration, the identity, by name or category, of persons to  
18 be permitted access to the document, and all relevant information.” The court’s own Standing  
19 Order, available on its web page, and its Pretrial Scheduling Order issued in this case, ECF No.  
20 128, emphasize the requirement that a party comply with the law and the rules in making any  
21 sealing request, which they should do lightly and only rarely if at all. Here, realtor’s request to  
22 seal is appropriate only to the extent it allows for complete, unredacted copies of documents to be  
23 placed under seal concurrently with the filing of redacted copies to preserve the record. The  
24 request to redact limited information, including social security numbers, addresses, full names  
25 other than relator’s and birthdates, is consistent with both Local Rules and the Federal Rules of  
26 Civil Procedure, and reflects the requirements placed by both on relator.

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In sum, the court finds good cause for defendant's filing of a REDACTED copy of the documents for which a placeholder has been filed at ECF No. 318-2, with an unredacted copy of the same documents filed UNDER SEAL concurrently.

III. CONCLUSION

Relator's request to seal or redact is GRANTED to the extent explained above. The court directs defendant to file the redacted documents within seven (7) days of this order, and to concurrently provide the Clerk of Court with the corresponding unredacted documents for filing under seal. This order resolves the in camera request filed as noticed by ECF No. 344; the Clerk of Court is directed to file the in camera request and its supporting documents under seal to preserve the record with respect to the request.

IT IS SO ORDERED.

DATED: October 15, 2020.

  
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CHIEF UNITED STATES DISTRICT JUDGE