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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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JOANNE BLIGHT,
Plaintiff,

v.

CITY OF MANTECA, a municipal
corporation; Manteca Police
Department Detectives ARMANDO
GARCIA and IAN OSBORN; and
Manteca Police Department
Sergeants PAUL CARMONA and
CHRIS MRAZ;

Defendants.

CIV. NO. 2:15-2513 WBS AC
ORDER RE: REQUEST TO SEAL

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Plaintiff Joanne Blight brought this action against
defendants the City of Manteca, Manteca Police Department
Detectives Armando Garcia and Ian Osborn, and Manteca Police
Department Sergeants Paul Carmona and Chris Mraz, alleging that
defendants violated her Fourth Amendment rights when they engaged
in a "SWAT style raid" and "search" of her home. (Compl. ¶¶ 19,
32 (Docket No. 1).) Defendants claim that the search was

1 authorized by a state court warrant issued pursuant to a sworn
2 affidavit they had submitted to the state court containing
3 information provided by a confidential informant ("CI"). (See
4 Answer at 12 (Docket No. 5); Docket No. 47 at 3.) Plaintiff
5 claims that defendants misrepresented or omitted material aspects
6 of what the CI told them in their affidavit to the state court.
7 (Feb. 10, 2017 Order at 2 (Docket No. 55).)

8 On February 10, 2017, the magistrate judge in this case
9 issued an order granting plaintiff's motion to compel the
10 deposition of the CI on grounds that the CI's deposition was
11 necessary to a "fair presentation" of plaintiff's claim that
12 defendants misrepresented or omitted material aspects of what the
13 CI told them in their affidavit to the state court. (See id. at
14 3, 6.) Defendants, who opposed the motion, filed a request
15 asking this court to reconsider the magistrate judge's ruling on
16 February 24. (Defs.' Req. for Recons. (Docket No. 62).)

17 Defendants' request for reconsideration is extensively redacted;
18 the exhibits attached to the request are wholly redacted and
19 identified only by title. (See id.; Docket No. 62-1.) Three
20 days after they filed their redacted request for reconsideration
21 and supporting exhibits, defendants requested that this court
22 allow them to file unredacted versions of their request for
23 reconsideration and supporting exhibits under seal. Plaintiff
24 has not objected to the filing of such documents under seal.

25 Pursuant to Local Rule 141(a), "[d]ocuments may be
26 sealed only by written order of the Court, upon the showing
27 required by applicable law." E.D. Cal. L.R. 141(a). "Two
28 standards generally govern motions to seal documents"

1 Pintos v. Pac. Creditors Ass'n, 605 F.3d 665, 677 (9th Cir.
2 2010). In the context of requests to seal "dispositive pleadings
3 . . . and [their] related attachments," the court is directed to
4 apply a "'compelling reasons' standard." Kamakana v. City & Cty.
5 of Honolulu, 447 F.3d 1172, 1178-79 (9th Cir. 2006). In the
6 context of "[n]ondispositive motions" and "records attached to
7 [such motions]," by contrast, the Ninth Circuit has held that the
8 requesting party need only meet a "'good cause' standard" because
9 "the public's interest in accessing dispositive materials does
10 not apply with equal force to non-dispositive materials."
11 Pintos, 605 F.3d at 678; Kamakana, 447 F.3d at 1179-80.

12 Because defendants' request for reconsideration merely
13 seeks to reverse the magistrate judge's ruling compelling the
14 deposition of the CI, it is not a dispositive motion. Thus, the
15 "good cause" standard applies to defendants' request to seal.

16 While the "good cause" standard is not as rigorous as
17 the "compelling reasons" standard, see Kamakana, 447 F.3d at 1180
18 ("A 'good cause' showing will not, without more, satisfy a
19 'compelling reasons' test."), a "party asserting good cause bears
20 the burden, for each particular document it seeks to protect, of
21 showing that specific prejudice or harm will result if no
22 protective order is granted," Davis v. Soc. Serv. Coordinators,
23 Inc., No. 1:10-CV-02372 LJO SKO, 2012 WL 2376217, at *1 (E.D.
24 Cal. June 22, 2012) (quoting Foltz v. State Farm Mut. Auto. Ins.
25 Co., 331 F.3d 1122, 1130 (9th Cir. 2003)). "Broad allegations of
26 harm, unsubstantiated by specific examples or articulated
27 reasoning, do not satisfy the [good cause] test." Id. (quoting
28 Beckman Indus., Inc. v. Int'l Ins. Co., 966 F.2d 470, 476 (9th

1 Cir. 1992)). "If a court finds particularized harm will result
2 from disclosure of information to the public, then it balances
3 the public and private interests to decide whether a protective
4 order is necessary." Id. (quoting Phillips v. Gen. Motors Corp.,
5 307 F.3d 1206, 1211 (9th Cir. 2002)).

6 Here, defendants seek to seal the following: (1) the
7 portions of their request for reconsideration which discuss
8 information allegedly provided by the CI to defendants, (2)
9 photocopies of text messages between the CI and defendant Garcia,
10 (3) a diagram drawn by the CI, and (4) the entire transcript of
11 the hearing held for plaintiff's motion to compel before the
12 magistrate judge. According to defendants, public disclosure of
13 such documents and information "would identify the [CI] and then
14 jeopardize his/her safety" and "reduce [his/her] effectiveness in
15 future matters."

16 The court acknowledges that the safety of the CI is a
17 concern which, if in fact jeopardized by the documents and
18 information at issue, would be sufficient to satisfy the "good
19 cause" standard for sealing nondispositive documents. See, e.g.,
20 Mitchell v. Cate, No. 2:11-CV-1240 JAM AC, 2014 WL 1671589, at *3
21 (E.D. Cal. Apr. 28, 2014) (granting request to seal "information
22 [that] cannot be revealed without endangering informants"); USA
23 v. Conner, No. 15-CR-00296 HSG 1, 2015 WL 8482205, at *4 (N.D.
24 Cal. Dec. 10, 2015) (granting request to seal information
25 "contain[ing] the possible identity of a confidential
26 informant").

27 However, defendants have not sufficiently articulated
28 why disclosure of the documents and information at issue will

1 jeopardize the CI's safety. None of the documents here, with the
2 exception of the text messages, contain any of the CI's personal
3 identifying information. While it is understandable that
4 defendants would want to redact the CI's phone number from the
5 text messages, which the court would grant leave to do, the court
6 is left without any explanation as to why the entirety of the
7 text messages and other documents defendants seek to seal, which
8 merely discuss information provided by the CI to defendants
9 without identifying the CI, require sealing. It may be that
10 information provided by the CI to defendants is sufficient to
11 identify the CI. "[B]ut it is defendants' obligation to explain"
12 why that is the case, "not the court's obligation to guess" at
13 why that may be the case.¹ See Andrade v. Lewis, No. C 11-3528
14 SI PR, 2013 WL 655002, at *3 (N.D. Cal. Feb. 21, 2013).

15 Moreover, the court is not inclined to consider the
16 text messages and diagram submitted by defendants in reviewing
17 the magistrate judge's ruling. Though defendants represent that
18 they emailed those exhibits to the magistrate judge "[o]n the
19 morning of the hearing" for plaintiff's motion to compel, (Defs.'
20 Req. for Recons. at 2-3), it does not appear, from the transcript
21 of the hearing, that defendants ever brought the exhibits to the
22 magistrate judge's attention at the hearing, where she ruled on
23 the motion. Because it appears that defendants are raising the
24 text messages and diagram for the first time now, the court need

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26 ¹ Defendants cite an affidavit provided by defendant
27 Garcia indicating that the CI's safety would be jeopardized if he
28 or she were to be identified. The affidavit does not explain why
disclosure of the documents and information at issue would result
in the CI's identification, however.

1 not, and is not inclined to, consider such evidence in reviewing
2 the magistrate judge's ruling. See Galik v. Nangalama, No. CIV.
3 2:09-0152 WBS, 2012 WL 469850, at *2 (E.D. Cal. Feb. 7, 2012)
4 (noting that the court need not consider new evidence in
5 resolving objections to a magistrate judge's findings and
6 recommendations).

7 The court further notes that the redacted version of
8 defendants' request for reconsideration and supporting exhibits
9 were filed without the court's authorization in violation of
10 Local Rule 140(b). See E.D. Cal. L.R. 140(b) ("No other
11 redactions are permitted unless the Court has authorized the
12 redaction."). Because defendants did not comply with Local Rule
13 140(b) in filing those documents, the court will strike those
14 documents from the record.

15 IT IS THEREFORE ORDERED that defendants' request to
16 seal be, and the same hereby is, DENIED.

17 IT IS FURTHER ORDERED that defendants' redacted request
18 for reconsideration of the magistrate judge's ruling (Docket No.
19 62) and its supporting exhibits (Docket No. 62-1) be, and the
20 same hereby are, STRICKEN.

21 Dated: March 21, 2017



22 **WILLIAM B. SHUBB**
23 **UNITED STATES DISTRICT JUDGE**
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