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6 UNITED STATES DISTRICT COURT
7 EASTERN DISTRICT OF CALIFORNIA
8 AT SACRAMENTO
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10 ONDRA MBAZOMO, on Behalf of
11 Herself and all Others Similarly Situated,
12 Plaintiff,
13 v.
14 ETOURANDTRAVEL, INC.,
15 Defendant.
16

No. 2:16-cv-02229-SB

**ORDER GRANTING LEAVE TO
FILE DOCUMENTS UNDER
SEAL AND EXTENDING
DEADLINE FOR DISCOVERY**

17 Before the Court is the parties' Notice of Request to Seal Documents, ECF
18 No. 21, and Stipulation and Proposed Order Regarding (1) Extending the Deadline
19 for Class Discovery and Plaintiff's Motion for Class Certification and (2)
20 Resolution of "Contested Issue No. 8" in Pending Motion to Compel, ECF No. 27.
21 For the reasons below, the Court grants the request to seal documents, enters the
22 stipulation, and extends the deadlines for discovery and for the motion for class
23 certification.
24

25 Notice of Request to Seal Documents, ECF No. 21. Plaintiff requests to file
26 certain documents related to this motion to compel under seal. These documents
27 include Statement of Discovery Disagreement re: Motion to Compel Production of
28 Documents at 49:1-11; and exhibits 15-19 to the Declaration of Joel D. Smith in

No. 2:16-cv-02229-SB

ORDER GRANTING LEAVE TO . . . ^ 1

1 Support of the Joint Statement of Discovery Disagreement re Motion to Compel,
2 at pages 2, 4-5, 7-8, 10, and 12-18. Defendant has designated these documents and
3 pages as confidential, because they contain “confidential, proprietary or private
4 information for which special protection from public disclosure” is warranted.
5 ECF No. 15 at ¶ 1(A).

6 When non-dispositive motions are implicated, a good cause standard applies
7 to requests to seal information. *Davenport v. The Wendy’s Co.*, No. 2:14-cv-0931
8 JAM DAD, 2015 WL 4913232, at *1 (E.D. Cal. Aug. 17, 2015). The Court is
9 persuaded that Defendant’s need to protect is proprietary information provides
10 adequate cause to file the above documents under seal, and the request to file these
11 documents under seal is **GRANTED**.

12 However, the Court declines to enter the parties’ joint request for a
13 protective order, ECF No. 15. Where the parties agree, as here, that certain
14 information should remain confidential, it may be prudent to enter into an
15 agreement setting forth in writing what information shall remain private. It is
16 unnecessary, however, for such an agreement to have this Court’s imprimatur. A
17 court-issued protective order is less necessary since Rule 5(d) was amended to
18 only require filing discovery material actually used in support of an action.
19 Because not all discovery material need be filed, most discovery material is not
20 readily accessible to the public. Therefore, the primary concern regarding
21 confidential materials is how the parties themselves handle such material. This
22 Court will not hesitate to issue a protective order when it is necessary, however,
23 the moving party or parties must demonstrate good cause exists and bears the
24 “burden of showing specific prejudice or harm” that will result if no protective
25 order is granted. *Phillips v. G.M. Corp.*, 307 F.3d 1206, 1210-11 (9th Cir. 2002).
26 In other words, the moving party must demonstrate why the parties cannot resolve
27 the issue without court action—a standard that will generally not be met when the
28 parties agree to the terms of a proposed protective order. The parties appear to be

1 in agreement on what material is appropriate for discovery and how it should be
2 handled. Therefore, it is unnecessary for the Court to enter such an order, and the
3 request found at ECF No. 15 is **DENIED**.

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5 Stipulation and Proposed Order Regarding (1) Extending the Deadline for Class
6 *Discovery and Plaintiff's Motion for Class Certification and (2) Resolution of*
7 *"Contested Issue No. 8" in Pending Motion to Compel, ECF No. 27.* The Court is
8 reviewing the pending motion to compel as quickly as practicable. The parties
9 stipulate, however, that more time will be needed to properly work through the
10 Court's discovery resolutions, and that extended time will be needed for discovery
11 and for filing Plaintiff's motion for class certification. The Court finds good cause
12 to grant the stipulation.

13
14 Accordingly, **IT IS HEREBY ORDERED THAT:**

15 1. The Notice of Request to Seal Documents, ECF No. 21, is **GRANTED**,
16 and the parties may file the requested documents under seal.

17 2. The deadline to complete discovery is extended to **September 15, 2017**.

18 3. The deadline to file Plaintiff's motion for class certification is extended to
19 **September 22, 2017**. The setting of a hearing date and deadlines for filing
20 responses and replies will follow local rule or the stipulation of the parties.

21 4. The parties will defer all discovery on the ATDS issue (which currently
22 consists of Plaintiff's Document Request Nos. 4-6 and Topic Nos. 17-22 of the
23 Amended Notice of 30(b)(6) Deposition) until after resolution of Plaintiff's
24 motion for class certification. At such time, the parties will meet and confer to set
25 a deadline to produce documents responsive to Plaintiff's Document Request Nos.
26 4-6, and to schedule a second 30(b)(6) deposition addressing the ATDS issue,
27 unless the issue is resolved by stipulation.

