

1 I. Motion for Reconsideration

2 This case is a procedural mess. This court's Order of
3 February 6, 2018, allowing plaintiff to file and serve an Amended
4 Complaint (Docket No. 119) was intended, at least in part, to
5 allow the parties to clean up that mess. At the time of his
6 hearing on January 10, 2018, Magistrate Judge Brennan had no way
7 of knowing of that Order, and his subsequent Order After Hearing,
8 on February 8, 2018 (Docket No. 122), made no mention of it. It
9 would be unfair in light of this court's February 6, 2018 Order
10 to deem defendant Geneva, Inc. to have admitted plaintiff's First
11 Set of Requests for Admissions, which were served before Geneva,
12 Inc. was a party to this case. The court does not want to
13 prejudice any party simply because of a procedural
14 misunderstanding or technicality. Accordingly, the court will
15 grant Geneva Inc.'s Motion for Reconsideration and vacate the
16 relevant portions of Magistrate Judge Brennan's Order After
17 Hearing (Docket No. 122.)

18 II. Motion to Seal

19 Plaintiff has also submitted a Request to Seal
20 Documents. (Docket No. 131.) In this motion, plaintiff moves to
21 seal portions of its Second Amended Complaint as well as Exhibits
22 A, G, H, I, and J in their entirety.

23 Pursuant to Local Rule 141(a), "[d]ocuments may be
24 sealed only by written order of the Court, upon the showing
25 required by applicable law." E.D. Cal. L.R. 141(a). "Two
26 standards generally govern motions to seal documents." Pintos v.
27 Pac. Creditors Ass'n, 605 F.3d 665, 677 (9th Cir. 2010). In the
28 context of requests to seal "dispositive pleadings . . . and

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

10 As the parties are not seeking to seal any dispositive
11 motions, the court applies the "good cause" standard to
12 plaintiff's request. See Kamakana, 447 F.3d at 1179. While the
13 "good cause" standard is not as rigorous as the "compelling
14 reasons" standard, a "party asserting good cause bears the
15 burden, for each particular document it seeks to protect, of
16 showing that specific prejudice or harm will result if no
17 protective order is granted." Foltz v. State Farm Mut. Auto.
18 Ins. Co., 331 F.3d 1122, 1130 (9th Cir. 2003); see Kamakana, 447
19 F.3d at 1180 ("A 'good cause' showing will not, without more,
20 satisfy a 'compelling reasons' test."). Here, plaintiff has not
21 given specific reasons why any particular information in the
22 Second Amended Complaint or the specified attachments should be
23 sealed, beyond merely stating that disclosure could "be a
24 detriment to Equifax." (Pl.'s Req. to Seal at 2.)

25 In January 2018, the parties stipulated to a Protective
26 Order of Confidentiality and to Protect Privileged Materials,
27 which was signed by Magistrate Judge Brennan on February 7, 2018.
28 (Docket No. 121.) That order was to apply to all "Protected

1 Material," which was defined as any discovery material that was
2 designated as "confidential" by any party. (Id. at 4.) The
3 documents that plaintiff now seeks to seal have been designated
4 "confidential" by Equifax.

5 This court recognizes that generally "when a court
6 grants a protective order for information produced during
7 discovery, it already has determined that 'good cause' exists to
8 protect this information from being disclosed to the public by
9 balancing the needs for discovery against the need for
10 confidentiality." Phillips ex rel. Estates of Byrd v. Gen.
11 Motors Corp., 307 F.3d 1206, 1213 (9th Cir. 2002). However,
12 "[b]ecause the parties had simply stipulated to the protective
13 order, a particularized showing of 'good cause' to keep the
14 documents under seal had never been made to the court."
15 Kamakana, 447 F.3d at 1176.

16 Further, the Protective Order explained that "Protected
17 Material may only be filed under seal pursuant to a court order
18 authorizing the sealing of the specific Protected Material at
19 issue." (Pl.'s Req. to Seal at 15.) Accordingly, because "the
20 order requested that the parties obtain a court order to file
21 materials under seal . . . [plaintiff] should have been on notice
22 that confidential categorization . . . under the protective order
23 was not a guarantee of confidentiality, especially in the event
24 of a court filing." See Kamakana, 447 F.3d at 1183. Therefore,
25 although magistrate Judge Brennan "expressly approved and entered
26 the protective order, the order contained no good cause findings
27 as to specific documents." (Id.)

28 Additionally, sealing this information may prevent the

1 public from understanding the basis upon which the court makes
2 its decisions, and plaintiff fails to explain how public
3 disclosure of the contents of its Second Amended Complaint and
4 attachments would cause harm to any of the parties, much less how
5 that harm outweighs public policies favoring disclosure. See id.
6 at 1178-79. Accordingly, the court concludes that, even in light
7 of the protective order, plaintiff has not presented "good cause"
8 to rebut the presumption in favor of public access. See id.
9 (citing Foltz, 331 F. 3d at 1128).

10 IT IS THEREFORE ORDERED that defendant Geneva Inc.'s
11 Motion for Reconsideration (Docket No. 127) be, and the same
12 hereby is, GRANTED, and those portions of the Magistrate Judge's
13 Order of February 8, 2018 (Docket No. 122) deeming Plaintiff's
14 First Set of Requests for Admissions admitted, and requiring
15 Geneva Financial Services, Inc. to reimburse plaintiff for
16 expenses, are hereby vacated and set aside.

17 IT IS FURTHER ORDERED that plaintiff's Request to Seal
18 (Docket No. 131) be, and the same hereby is, DENIED without
19 prejudice to the right of either party to submit a more tailored
20 request which specifically states the basis for sealing or
21 redacting these documents.

22 Dated: April 26, 2018



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