

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
27
28United States District Court
For the Northern District of CaliforniaIN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

STACEY MOODY,

Plaintiff,

v.

COUNTY OF SAN MATEO, LAURENCE
GAINES, RON SALAZAR,

Defendants

No. C-08-1864 MMC

**ORDER GRANTING IN PART, DENYING
IN PART AND DEFERRING IN PART
RULING ON DEFENDANT COUNTY OF
SAN MATEO'S ADMINISTRATIVE
MOTION TO FILE DOCUMENTS UNDER
SEAL; AFFORDING DEFENDANT
OPPORTUNITY TO FILE
SUPPLEMENTAL MEMORANDUM**

Before the Court is defendant County of San Mateo's ("County") "Administrative Motion to File Motion for Summary Adjudication of Claims and Issues and Briefs, Declarations and Exhibits In Support Thereof, Under Seal," filed October 2, 2009. No opposition or response thereto has been filed.

Having read and considered the papers filed in support of the administrative motion, the Court rules as follows:

1. Three exhibits attached to the Declaration of David A. Levy ("Levy Declaration"), specifically Exhibits O, Q, and R, have been found to be confidential by Magistrate Judge Wayne D. Brazil (see Order Following In Camera Review, filed May 1, 2009); the motion for summary adjudication includes discussion of the contents of those documents.

Accordingly, to the extent the administrative motion seeks leave to file under seal the unredacted versions of the Levy Declaration and the motion for summary adjudication, the

1 administrative motion is hereby GRANTED.

2 2. To the extent the administrative motion seeks a finding that it is “pointless” to
3 require the County to file redacted versions of the Levy Declaration and the motion for
4 summary adjudication, the administrative motion is hereby DENIED. The fact that a portion
5 of a document is properly filed under seal does not mean the entirety of the document may
6 be filed under seal. See Civil L.R. 79-5(a) (providing motion for leave to file document
7 under seal “must be narrowly tailored to seek sealing only of sealable material”).
8 Accordingly, the County will be required to file in the public record redacted versions of the
9 Levy Declaration and the motion for summary adjudication.

10 In that respect, the Court notes that the County has asserted that, in addition to the
11 material found confidential by Magistrate Judge Brazil, the Levy Declaration and the motion
12 for summary adjudication include material designated as confidential by one or more
13 parties to the instant action. The County fails, however, to identify any particular matter
14 that has been so designated, let alone to establish that any such material “is privileged or
15 portectable as a trade secret or otherwise entitled to protection under the law.” See Civil
16 L.R. 79-5(a); see also Foltz v. State Farm Mutual Automobile Ins. Co., 331 F.3d 1122,
17 1135-36, (9th Cir. 2003) (holding documents filed in connection with motion for summary
18 judgment may not be filed under seal absent “compelling reasons for doing so”). Before
19 requiring the County to file redacted versions of the Levy Declaration and motion for
20 summary adjudication, the Court will afford the County leave to file, no later than October
21 26, 2009, a supplemental memorandum identifying those additional portion(s) of the Levy
22 Declaration and/or motion for summary adjudication the County is designating as
23 confidential, and, further, to establish why any such portion is, in fact, confidential.¹


24 //

25 _____
26 ¹To the extent a party other than the County has designated as confidential any
27 material the County seeks to file, the County need only identify the material and the
28 designating party, whereupon the designating party must, within five court days, file a
declaration establishing the material is properly filed under seal. See Civil L.R. 79-5(d).

1 3. The County fails to identify any portion of the Declaration of Steven Shively that is
2 confidential in nature, let alone to “establish[] that the document, or portions thereof, is
3 privileged or protectable as a trade secret or otherwise entitled to protection under the law.”
4 See Civil L.R. 79-5(a). The Court will, however, afford the County leave to file, no later
5 than October 26, 2009, a supplemental memorandum identifying any portion of said
6 declaration that is confidential and to establish why such portion is, in fact, confidential.

7 **IT IS SO ORDERED.**

8
9 Dated: October 13, 2009

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

MAXINE M. CHESNEY
United States District Judge