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United States District Court  
For the Northern District of California

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

LES CONCIERGES, INC.,

No. C-09-1510 MMC

Plaintiff,

**ORDER RE: DEFENDANT ROBESON'S  
ADMINISTRATIVE MOTION TO FILE  
DOCUMENTS UNDER SEAL**

v.

MARK ROBESON, et al.,

Defendants

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Before the Court is defendant Mark Robeson's ("Robeson") "Administrative Motion to File The Entire Declaration of Michael Gary Funck Under Seal," filed April 27, 2009. Robeson. In his motion, Robeson states that plaintiff has designated as confidential the entirety of Funck Declaration, including every page of the three exhibits attached thereto.

Under the Local Rules of this District, where a party seeks to file under seal any material designated as confidential by another party, the submitting party must file a motion for a sealing order. See Civil L.R. 79-5(d). "Within five days thereafter, the designating party must file with the Court and serve a declaration establishing that the designated information is sealable, and must lodge and serve a narrowly tailored proposed sealing order, or must withdraw the designation of confidentiality." Id. "If the designating party does not file its responsive declaration as required by this subsection, the document or proposed filing will be made part of the public record." Id.

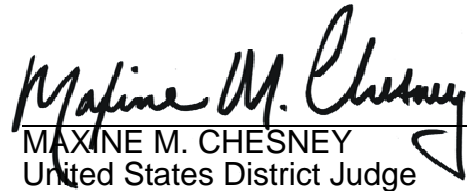
1 Here, plaintiff has failed to file a responsive declaration, and, as a consequence, has  
2 not established that any part of the Funck Declaration constitutes confidential matter, much  
3 less the entirety thereof. The Court will, however, rather than directing the Clerk to file in  
4 the public record the Funck Declaration, afford plaintiff leave to file a late declaration.

5 In that respect, the Court notes, however, that plaintiff may not assert the entirety of  
6 the Funck Declaration is confidential merely because a portion of the declaration and/or a  
7 portion of an exhibit attached thereto may be confidential. Under the Local Rules of this  
8 District, “[a] sealing order may issue only upon a request that establishes that the  
9 document, or portions thereof, is privileged or protectable as a trade secret or otherwise  
10 entitled to protection under the law.” See Civil L.R. 79-5(a). “The request must be narrowly  
11 tailored to seek sealing only of sealable material.” Id.

12 Accordingly, plaintiff is hereby afforded leave to file, no later than May 18, 2009, a  
13 responsive declaration to Robeson’s administrative motion. As discussed above, any such  
14 responsive declaration must seek leave to file under seal only the portions of the Funck  
15 Declaration and exhibits attached thereto that consist of assertedly confidential material.

16 **IT IS SO ORDERED.**

17  
18 Dated: May 11, 2009

19   
MAXINE M. CHESNEY  
United States District Judge