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28United States District Court
For the Northern District of California

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

TABITHA TOTAH

No. C-09-4051 MMC

Plaintiff(s),

**ORDER GRANTING PLAINTIFF'S
MOTION TO STRIKE CONFIDENTIAL
EXHIBIT; DEFERRING JUDGMENT ON
MOTION FOR COURT'S SEALING
ORDER; DIRECTIONS TO CLERK**

v.

LUCASFILM ENTERTAINMENT COMPANY
LTD., Does 1-20,

Defendant(s).

Before the Court is plaintiff Tabitha Totah's ("Totah") Administrative Motion, filed November 18, 2010, requesting this Court (1) strike Exhibit 10 to the declaration of Jody Meisel ("Meisel") filed in support of plaintiff's opposition to defendant's motion for summary judgment, and (2) to permit plaintiff to file a copy of said exhibit under seal, pursuant to Civil Local Rule 79-5. Meisel, in a declaration submitted in support of the instant motion, states the exhibit in question, marked "confidential" in accordance with the Stipulation and Protective Order entered February 19, 2010, was inadvertently filed in the public record. (See Meisel Decl. at 2:12-18.)¹ Meisel states she discovered such inadvertent filing when she was notified by counsel for defendant Lucasfilm Entertainment Company, Ltd. (See id. at 2:18-21.)

¹ Exhibit 10 is a performance evaluation of a Lucasfilm employee other than Totah. (See id. at 3:5-8.)


1 Accordingly, Exhibit 10 to the “Declaration of Jody Meisel in Support of Plaintiff
2 Totalah’s Opposition to Defendant Lucasfilm Entertainment Company Ltd.’s Motion for
3 Summary Judgment or, in the Alternative, Partial Summary Judgment,” filed November 16,
4 2010, is hereby STRICKEN.

5 The Court, however, defers judgment on Totalah’s request to file the exhibit under
6 seal. Where a party wishes to file under seal a document designated as confidential by
7 another party, “[w]ithin 7 days [after the motion for a sealing order], the designating party
8 must file with the Court and serve a declaration establishing that the designated information
9 is sealable, and must lodge and serve a narrowly tailored proposed sealing order, or must
10 withdraw the designation of confidentiality.” (Civil L.R. 79-5(d).) “If the designating party
11 does not file its responsive declaration as required by this subsection, the document or
12 proposed filing will be made part of the public record.” (*Id.*) Consequently, the Court will
13 defer judgment on Totalah’s motion to file Exhibit 10 under seal until such time as defendant
14 serves a declaration and proposed sealing order or the requisite time to do so has passed.

15 Finally, the Court notes that Totalah submitted the entirety of the instant motion under
16 seal. Under the Civil Local Rules of this district, only the “privileged or protectable”
17 document is to be submitted under seal, whereas the accompanying administrative motion
18 and declaration are to be “[f]ile[d] and serve[d].” (*See* Civil L.R. 79-5(a), (b).) Accordingly,
19 the Court directs the Clerk to unseal Totalah’s motion, with the exception of the above-
20 referenced Exhibit 10.

21 **IT IS SO ORDERED.**

22
23 Dated: November 19, 2010


MAXINE M. CHESNEY
United States District Judge