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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

EMIL LAWRENCE,  
Plaintiff,  
v.  
CITY AND COUNTY OF SAN  
FRANCISCO, et al.,  
Defendants.

Case No. [14-cv-00820-MEJ](#)  
**ORDER RE: ADMINISTRATIVE  
MOTION TO FILE UNDER SEAL**  
Re: Dkt. No. 115

**INTRODUCTION**

Pending before the Court is Defendants’ Motion to Seal Exhibits 5 and 6 to Plaintiff’s Opposition. Defs.’ Mot., Dkt. No. 115. On March 31, 2017, the Court denied Plaintiff Emil Lawrence’s Motion to Seal Exhibits 1-6 to his Opposition on the ground that Defendants did not file a responsive declaration in support of the Motion as required by Local Civil Rule 79-5(e)(1). Order, Dkt. No. 114; *see* Pl.’s Mot., Dkt. No. 109. Defendants filed the instant Motion that same day. Defendants explain that “[d]ue to attorney mistake, defendants failed to file a timely Local Rule 79-5 declaration.” Defs.’ Mot. at 2; *see* Ceballo Decl. ¶ 2, Dkt. No. 115-1. Having considered the parties’ arguments, the record in this case, and the relevant legal authority, the Court issues the following order.

**LEGAL STANDARD**

There is a “strong presumption in favor of access” by the public to judicial records and documents accompanying dispositive motions. *Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1178-79 (9th Cir. 2006) (citing *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003)). To overcome this presumption, a “party must articulate compelling reasons supported by specific fact[s].” *Id.* at 1178 (internal quotation and citation omitted); *see also*

1 *Apple, Inc. v. Samsung Elecs. Co.*, 727 F.3d 1214, 1223 (Fed. Cir. 2013) (finding sealing  
2 appropriate where companies “filed declarations from employees” that “explained the measures  
3 the two companies take to keep their product-specific financial information confidential” and “the  
4 harm they would suffer if their product-specific financial information were made public”).  
5 Indeed, such showing is required even where “the dispositive motion, or its attachments, were  
6 previously filed under seal or protective order.” *Kamakana*, 447 F.3d at 1179.

## 7 DISCUSSION

### 8 A. Exhibits 1-4

9 Defendants do not seek to seal Exhibits 1-4. Ceballo Decl. ¶¶ 3(1)-(4). Accordingly, the  
10 Court ORDERS Plaintiff to file unredacted versions of Exhibits 1-4 in the public docket and/or  
11 lodge them with the Court no later than April 11, 2017.

### 12 B. Exhibits 5 and 6

13 Defendants argue Exhibits 5 and 6 should be sealed. *Id.* ¶¶ 3(5)-(6). They contend “[b]oth  
14 [exhibits] are portions of investigatory files, for unrelated incidents, from the Police  
15 Accountability Office, previously called the Office of Citizen Complaints (“OCC”).” Defs.’ Mot.  
16 at 2.

17 “Federal courts have recognized police officers’ privacy interest in their personnel files,  
18 but a generalized assertion of a privacy interest is not sufficient to warrant barring disclosure of a  
19 judicial record.” *Pryor v. City of Clearlake* (“*Pryor I*”), 2012 WL 2711032, at \*1 (N.D. Cal. July  
20 6, 2012) (citing *Kamakana*, 447 F.3d at 1184). Defendants argue “OCC files are kept confidential  
21 to protect the identity of the complainants, the witnesses, and the officers.” Defs.’ Mot. at 2.  
22 Confidentiality (1) allows the Police Accountability Office to investigate complaints without fear  
23 that a party will take a portion of the investigation out of context or use “the department’s”<sup>1</sup>  
24 conclusions or theories for unintended purposes; (2) protects the privacy rights of the persons  
25 involved; and (3) allows the police department to take appropriate disciplinary action. *Id.*; *see*  
26 Ceballo Decl. ¶¶ 3(5)-(6). Defense counsel declares Exhibits 5 and 6 “contain[] information  
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28 <sup>1</sup> Defendants do not specify whether “the department” refers to the Police Accountability Office, the San Francisco Police Department, or another unidentified department.

1 protected by a privacy right . . . , work product, or are confidential as a personnel file under  
2 California Penal Code section 832.7.” Ceballo Decl. ¶¶ 3(5)-(6). Defendants further assert that  
3 “[a] simple attorney mistake should not serve to harm the mission of the OCC.” Defs.’ Mot. at 2.

4 Compelling reasons exist to seal Exhibits 5 and 6. Defendants set forth specific reasons  
5 why confidentiality is necessary. Moreover, Exhibits 5 and 6 name parties not involved in this  
6 proceeding whose identities are not relevant to the disposition of this matter. The nonparties’  
7 privacy interests outweigh the public’s interest in disclosure of their identities. *See Hunt v. Cont’l*  
8 *Cas. Co.*, 2015 WL 5355398, at \*2 (N.D. Cal. Sept. 14, 2015). These Exhibits also consist of  
9 OCC files documenting events unrelated to the instant case. While relevance is not a dispositive  
10 factor, “the lack of relevance of the sensitive information . . . underscores the privacy interest in  
11 sealing such information.” *Pryor v. City of Clearlake (“Pryor II”)*, 2012 WL 3276992, at \*4  
12 (N.D. Cal. Aug. 9, 2012); *see Pryor I*, 2012 WL 2711032, at \*1 (Where the information sought to  
13 be sealed is irrelevant, sensitive, and private, there is a “raise[d] . . . likelihood that it was filed . . .  
14 because of private spite or a desire to scandalize the public.”). For these reasons, the Court  
15 GRANTS Defendants’ Motion as to Exhibits 5 and 6.

16 **IT IS SO ORDERED.**

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18 Dated: April 4, 2017

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21 MARIA-ELENA JAMES  
22 United States Magistrate Judge  
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