

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

FRESENIUS USA, INC., et al.,

Plaintiff,

No. C 03-1431 PJH

v.

**ORDER DENYING MOTION TO FILE  
DOCUMENTS UNDER SEAL**

BAXTER INTERNATIONAL INC., et al.,

Defendant.  
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The court is in receipt of a motion for an order permitting the filing under seal of the Declaration of R. Bruce Den Uyl, and Exhibits A-C and E-G of the Declaration of Sanjay K. Murthy, both filed with the reply of defendants and counter-claimants Baxter International, Inc., and Baxter Healthcare Corporation ("Baxter") in support of their motion for decision on limited remand issues.

Baxter asserts that the documents were designated "Confidential" or "Highly Confidential" under the protective order in this case, and that they contain sensitive proprietary information of plaintiffs and counterdefendants Fresenius Medical Care Holdings, Inc., and Fresenius USA, Inc. ("Fresenius").

Under the Civil Local Rules of this court,

[i]f a party wishes to file a document that has been designated confidential by another party pursuant to a protective order, . . . the submitting party must file and serve an Administrative Motion for a sealing order and lodge the document, memorandum or other filing in accordance with this rule. . . .

1 Within 7 days thereafter, the designating party must file with the Court and  
2 serve a declaration establishing that the designated information  
3 is sealable, and must lodge and serve a narrowly tailored proposed sealing  
4 order, or must withdraw the designation of confidentiality. If the designating  
5 party does not file its responsive declaration as required by this subsection,  
6 the document or proposed filing will be made part of the public record.

7 Civil L.R. 79-5(d).

8 Baxter filed its motion to permit filing under seal on July 13, 2011. Fresenius'  
9 declaration was due on July 20, 2011. No declaration has been filed. Accordingly, the  
10 motion is DENIED. Baxter shall file the documents in the public record, and shall provide  
11 the court with a complete and unredacted version of the Den Uyl Declaration and the  
12 Murthy Declaration.

13 **IT IS SO ORDERED.**

14 Dated: July 28, 2011



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PHYLLIS J. HAMILTON  
United States District Judge