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

4 TODD ASHKER, et al.,
5 Plaintiffs,

6 v.

7 GOVERNOR OF THE STATE OF
8 CALIFORNIA, et al.,
9 Defendants.

No. C 09-5796 CW

ORDER GRANTING IN
PART DEFENDANTS'
MOTION TO SEAL
(Docket No. 250)

10 _____/
11 Defendants move to seal portions of two declarations filed in
12 opposition to Plaintiffs' motion for class certification.
13 Plaintiffs have not filed an opposition to Defendants' motion.
14 For the reasons set forth below, the motion is granted in part and
15 denied in part.

16 The public interest favors filing all court documents in the
17 public record. Thus, any party seeking to file a document under
18 seal must demonstrate good cause to do so. Pintos v. Pac.
19 Creditors Ass'n, 605 F.3d 665, 678 (9th Cir. 2010). This cannot
20 be established simply by showing that the document is subject to a
21 protective order or by stating in general terms that the material
22 is considered to be confidential, but rather must be supported by
23 a sworn declaration demonstrating with particularity the need to
24 file each document under seal. See Civil Local Rule 79-5(a).

25 Here, Defendants seek to seal Exhibit A to the declaration of
26 J. Zubiante. Because Exhibit A is a letter from Zubiante to his
27 attorney regarding legal matters, it is privileged and therefore
28 sealable. Civil L.R. 79-5(a) ("A sealing order may issue only

1 upon a request that establishes that the document, or portions
2 thereof is privileged or protectable as a trade secret or
3 otherwise entitled to protection under the law.").

4 Defendants also seek to seal certain exhibits and excerpts of
5 J. Bryan Elrod's declaration. The excerpts that Defendants seek
6 to seal identify several non-party inmates whose safety may be put
7 in jeopardy if their names are publicly disclosed. Declaration of
8 J. Frisk ¶¶ 7-8. Defendants have therefore established good cause
9 for sealing these excerpts. They have also established good cause
10 for sealing Exhibit B to Elrod's declaration, which discloses
11 specific details about the California Department of Corrections
12 and Rehabilitation's (CDCR) "debriefing" procedures.

13 Defendants have not, however, demonstrated good cause for
14 sealing Exhibit A in its entirety. Exhibit A is a letter that
15 Elrod wrote to a prisoners' rights attorney (not his own)
16 describing his experience at Pelican Bay, explaining his
17 motivations for participating in past hunger strikes, and
18 articulating his views of the instant lawsuit. Much of this
19 information is duplicative of information that has already been
20 disclosed in the portions of Elrod's declaration that were filed
21 in the public record. Defendants have not established good cause
22 for sealing this letter.¹ Although they note that the letter has
23 been designated "confidential" pursuant to a protective order, the
24 local rules plainly state that neither a protective order nor
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27 ¹ The first page of Exhibit A, marked RUIZ14669, is a confidential
28 communication between Elrod and a CDCR staff member that may be sealed
for security reasons.


1 stipulation is sufficient to establish that a document is
2 sealable. Civil L.R. 79-5(a).

3 CONCLUSION

4 For the reasons set forth above, Defendants' motion to file
5 under seal (Docket No. 250) is GRANTED in part and DENIED in part.
6 Within seven days of this order, Defendants shall file in the
7 public record pages RUIZ14670 through RUIZ14675 of Exhibit A to J.
8 Bryan Elrod's declaration.

9 IT IS SO ORDERED.

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11 Dated: 8/2/2013


12 CLAUDIA WILKEN
13 United States District Judge
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