

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

3  
4 ACTUATE CORPORATION, a California  
corporation,

5                                    Plaintiff,

6                                    v.

7 CONSTRUCTION SPECIALTIES, INC. ;  
8 and DOES 1 through 10,

9                                    Defendants.

No. C 10-4444 CW

ORDER GRANTING  
DEFENDANT  
CONSTRUCTION  
SPECIALTIES,  
INC.'S MOTION TO  
SEAL (Docket No.  
32)

10 \_\_\_\_\_/  
11                                    Defendant Construction Specialties, Inc. filed an

12 administrative motion to seal pursuant to this Court's Local Rule  
13 79-5. Docket No. 32. The motion accompanied Defendant's motion  
14 for partial summary judgment. Defendant seeks to file under seal  
15 Exhibits G, K and L to the Declaration of Craig S. Hilliard in  
16 support of its motion for partial summary judgment. As the basis  
17 for the motion, Defendant contends that Plaintiff Actuate  
18 Corporation previously designated these items "Confidential" under  
19 the Protective Order entered on March 28, 2011. Plaintiff's  
20 counsel James M. Lee has filed a declaration in support of sealing  
21 the exhibits pursuant to this Court's Local Rule 79-5(d). Docket  
22 No. 44.

23                                    The Ninth Circuit has held that where a party seeks to file  
24 under seal documents as part of a dispositive motion, the moving  
25 party must demonstrate compelling reasons to seal the documents.  
26 Kamakana v. City & County of Honolulu, 447 F.3d 1172, 1178-79 (9th  
27 Cir. 2006). In general, when "'court files might have become the  
28 a vehicle for improper purposes' such as the use of records to

1 gratify private spite, promote public scandal, circulate libelous  
2 statements, or release trade secrets," there are "compelling  
3 reasons" sufficient to outweigh the public's interest in  
4 disclosure. Id. at 1179. "The party requesting the sealing order  
5 must articulate compelling reasons supported by specific factual  
6 findings that outweigh the general history of access and the  
7 public policies favoring disclosure, such as the public interest  
8 in understanding the judicial process." Id. at 1178-79 (internal  
9 citations and alterations omitted). "In turn, the court must  
10 conscientiously balance the competing interests of the public and  
11 the party who seeks to keep certain judicial records secret." Id.  
12 at 1179 (internal citations and alterations omitted).

13 Having reviewed the relevant exhibits and the Lee  
14 declaration, it is evident that they contain confidential business  
15 information and Plaintiff's privacy interest in such information  
16 outweighs the public's interest in disclosure. Accordingly, the  
17 motion to file Exhibits G, K and L under seal is granted and  
18 Defendant shall electronically file said exhibits under seal.

19 IT IS SO ORDERED.

20  
21 Dated: 9/6/2012

22   
23 CLAUDIA WILKEN  
24 United States District Judge  
25  
26  
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