

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 Pursuant to stipulation, this action was dismissed by order
12 entered September 12, 2012. The Court notes, however, that an
13 administrative motion to seal of Defendant Construction
14 Specialties, Inc., remains pending. Docket No. 32. Defendant
15 moves to file under seal Exhibits G, K and L to the Declaration of
16 Craig S. Hilliard in support of its motion for partial summary
17 judgment. As the basis for the motion, Defendant contends that
18 Plaintiff Actuate Corporation previously designated these items
19 "Confidential" under the Protective Order entered on March 28,
20 2011. Plaintiff's counsel James M. Lee has filed a declaration in
21 support of sealing the exhibits pursuant to this Court's Local
22 Rule 79-5(d). Docket 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 a
28 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 (citation omitted). "The party
5 requesting the sealing order must articulate compelling reasons
6 supported by specific factual findings that outweigh the general
7 history of access and the public policies favoring disclosure,
8 such as the public interest in understanding the judicial
9 process." Id. at 1178-79 (internal citations and alterations
10 omitted). "In turn, the court must conscientiously balance the
11 competing interests of the public and the party who seeks to keep
12 certain judicial records secret." Id. at 1179 (internal citations
13 and alterations omitted).

14 Having reviewed the relevant exhibits and the Lee
15 declaration, it is evident that they contain confidential business
16 information and Plaintiff's privacy interest in such information
17 outweighs the public's interest in disclosure. Accordingly, the
18 motion to file Exhibits G, K and L under seal is granted and
19 Defendant shall electronically file said exhibits under seal
20 pursuant to General Order 62 within seven days of the date of this
21 order.

22 IT IS SO ORDERED.

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24 Dated: 9/24/2012

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CLAUDIA WILKEN
United States District Judge