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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ALEX ANG, et al.,
Plaintiffs,
v.
BIMBO BAKERIES USA, INC.,
Defendant.

Case No.13-cv-01196-HSG

**ORDER DENYING PLAINTIFFS’
MOTION TO SEAL**

Re: Dkt. No. 128

United States District Court
Northern District of California

Plaintiffs Alex Ang and Lynn Streit filed this unopposed motion to seal on April 17, 2015. Dkt. No. 128. Specifically, Plaintiffs seek leave to file under seal three exhibits to their reply brief in support of their motion for class certification. See id. at 1. All three exhibits have been designated as confidential by Defendant Bimbo Bakeries USA, Inc. See id. Plaintiffs also seek to seal those portions of the reply brief that discuss the substance of the three exhibits. See id.

Where litigants seek to seal documents “designated as confidential by the opposing party or a non-party pursuant to a protective order,” their “declaration in support of the Administrative Motion to File Under Seal must identify the document or portions thereof which contain the designated confidential material and identify the party that has designated the material as confidential.” Civil L.R. 79-5(e). Within four days of the filing of the motion to seal and the accompanying declaration, the party that designated the material as confidential “must file a declaration as required by [Civil Local Rule] 79-5(d)(1)(A) establishing that all of the designated material is sealable.” Civil L.R. 79-5(e)(1).

Here, after Plaintiffs filed this motion on April 17, 2015, Defendant failed to file a declaration establishing that the material it designated as confidential was sealable. Plaintiffs’ motion to seal is accordingly denied, to the extent it seeks to seal materials designated by


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Defendant as confidential. Moreover, Plaintiffs state in their motion that their reply brief “contains consumer survey data which has been redacted due to confidentiality.” Dkt. No. 128 at 1-2. While it is unclear whether this constitutes a request to seal material separate from that designated as confidential by Defendant, it is likewise denied. “A sealing order may issue only upon a request that establishes that the document, or portions thereof, are privileged, protectable as a trade secret or otherwise entitled to protection under the law.” Civil L.R. 79-5(b). A conclusory assertion that certain information is confidential is insufficient.

For the foregoing reasons, Plaintiffs’ motion to seal is **DENIED**. Plaintiffs may file the document in the public record “no earlier than 4 days, and no later than 10 days” after the date of this order, although the Court “may delay the public docketing of the document[s] upon a showing of good cause.” Civil L.R. 79-5(e)(2).

IT IS SO ORDERED.

Dated: 3/21/2018


HAYWOOD S. GILLIAM, JR.
United States District Judge