UNITED STATES DISTRICT COURT
IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA

JAMAL RASHID TRULOVE, Plaintiff, v. **MAUREEN D'AMICO**, *ET AL*. Defendants.	Case No. 16-cv-50 YGR **ORDER GRANTING IN PART AND DENYING IN PART ADMINISTRATIVE MOTIONS TO SEAL; GRANTING IN PART AND DENYING IN PART MOTION TO SEAL AT TRIAL** Dkt. Nos. 170, 175, 176, 177, 198, 207, 211, 264, 265, 266, 267, 277, 294, 307, 308, 309, 310, 311, 314, 320, 322, 324, 325, 339, 340, 361, 364, 365, 370, 371, 377

Pending before the Court in this matter are the motion of plaintiff to seal limited portions of witness testimony at trial (Dkt. No. 277) and the administrative motions to file under seal (hereinafter "AMFUS") documents filed in connection with the parties' motions to strike expert declarations, briefing and evidentiary submissions in support of and in opposition to defendants' motion for summary judgment, and pre-trial filings (Dkt. Nos. 170, 175, 176, 177, 198, 207, 211, 264, 265, 266, 267, 294, 307, 308, 309, 310, 311, 314, 320, 322, 324, 325, 339, 340, 361, 364, 365, 370, 371, 377).

A motion to seal documents that are part of the judicial record is governed by the "compelling reasons" standard. *Pintos v. Pacific Creditors Ass'n*, 605 F.3d 665, 678 (9th Cir. 2010). A "party seeking to seal judicial records must show that 'compelling reasons supported by specific factual findings ... outweigh the general history of access and the public policies favoring disclosure.'" *Id.* (quoting *Kamakana v. City and County of Honolulu*, 447 F.3d 1172, 1178-79 (9th Cir. 2006)). The trial court must weigh relevant factors including the "public interest in understanding the judicial process and whether disclosure of the material could result in improper use of the material for scandalous or libelous purposes or infringement upon trade

secrets." *Id.* at 679 n. 6 (quoting *Hagestad v. Tragesser*, 49 F.3d 1430, 1434 (9th Cir.1995)). Given the importance of the competing interests at stake, any sealing order must be narrowly tailored. Civ. L.R. 79-5 (a).

With respect to the motion to seal witness testimony at trial, the motion itself is **GRANTED IN PART AND DENIED IN PART**. The real name of the person identified in this Court's Order of December 12, 2016 (Dkt. No. 101) shall be sealed and hereinafter referred to as "John Doe." John Doe, if called to testify, shall be sworn by his true name during a sealed session and outside the presence of the jury. Thereafter the parties shall refer to him as John Doe since his actual identity is not relevant to this case. Second, the Court shall inquire of the jury pool orally at voir dire whether any of them know them this witness by his real name. The remainder of the requests in the motion to seal witness testimony at trial are **DENIED**. The public interest in an open judicial process requires that the Court narrowly limit matters that are sealed. The Court does not find closing or altering the courtroom proceedings beyond these steps to be warranted. The requests to seal the motion, opposition, and reply to the motion are **GRANTED** as to the entirety of the documents under the lower "good cause" standard applicable to non-dispositive matters. (Dkt. Nos. 277, 294, 340.)

As to the administrative motions to file under seal ("AMFUS"), having carefully reviewed the submissions and finding compelling reasons for their sealing, the Court **ORDERS** that they are **GRANTED IN PART,** as stated below, for the specified categories of information, and for the filings associated with these motions and pre-trial submissions **only**, unless otherwise stated:

1. the Court will permit redaction of the real name of John Doe and any photographs of John Doe. However, sealing is not granted as to any nicknames or more general discussion of John Doe.

2. sealing is granted as to any crime scene or autopsy photographs covered by California Code of Civil Procedure section 129.;

3. sealing is granted as to any juvenile criminal records, for all purposes, absent further order of the Court;

4. sealing is granted as to the medical history of witness Latisha Meadows as stated in her deposition; and

5. sealing is granted as to the medical history and records of plaintiff stated in the expert reports of Drs. Berg and Kriegler, submitted in connection with plaintiff's motion to exclude Dr. Berg's testimony.

The motions are otherwise **DENIED** for failure to establish compelling reasons to seal the information. The matters in these filings go to the heart of the merits of the case. They will not be shielded from public scrutiny. The Court sets forth in detail the rulings on the pending motions below:

Defendants' AMFUS Dkt. No. 170 Defendants' Daubert Motions

Document or Portion of Document South to be Sealed	Evidence Offered in Support of Sealing	Order
Page 221 of Plaintiff's Expert James Trainum's Deposition	12/12/16 Order, DE 101	**DENIED**, p. 221 is not included in excerpt submitted
Portions of Plaintiff's Expert James Trainum's Expert Report: Page 3, paragraph 10; 15, paragraph 67; page 19, paragraph 83; page 22, paragraph 94; and page 23, paragraph 96	12/12/16 Order, DE 101	**GRANTED IN PART** as to John Doe name and/or photograph **only**
Section J of Plaintiff's Expert James Trainum's Expert Report, Pages 32–38, paragraphs 124-146	12/12/16 Order, DE 101	**GRANTED IN PART** as to John Doe name and/or photograph **only**

Plaintiff's AMFUS Dkt. No. 175 Plaintiffs' Motion to Exclude Fries

Document or Portion of Document South to be Sealed	Evidence Offered in Support of Sealing	Order
Dr. Judy Melinek expert report, pictures on pages 10, 12, 17, 19, 27.	California Code of Civil Procedure ("CCP") § 129	**GRANTED**
Craig Fries expert report, pictures on pages 7, 9, 11, 12, 42; unnumbered pages in Exhibits: D, F, H, I , M, HH	CCP § 129	**GRANTED**

James Norris expert report, pictures on pages 10, 11, 22.	CCP § 129	**GRANTED**
Dr. Dan Kruger expert report, pictures on pages 14, 51, 54, 56.	CCP § 129	**GRANTED**
Dr. Judy Melinek rebuttal expert report, pictures on pages 7, 8.	CCP § 129	**GRANTED**
Exhibit of Priscilla Lualemaga drawings and photos with markings on page 4	CCP § 129	**GRANTED**

Plaintiff's AMFUS Dkt Nos. 176 Plaintiff's Motion to Exclude Berg

Document or Portion of Document to be Sealed	Evidence Offered in Support of Sealing	Order
Expert Report of Berg	Decl. of Jael Humphrey-Skomer Dkt. No. 176-1	**GRANTED**
Expert Report of Dr. Julie A Kriegler	Decl. of Jael Humphrey-Skomer Dkt. No. 176-1	**GRANTED**

Plaintiff's AMFUS Dkt Nos. 177 Plaintiff's Motion to Exclude Unretained Experts

Document or Portion of Document to be Sealed	Evidence Offered in Support of Sealing	Order
Emails between Plaintiff's counsel and Defendants' counsel	Decl. of Jael Humphrey-Skomer Dkt. No. 176-1 12/12/16 Order, DE 101	**GRANTED IN PART** as to John Doe name and/or photograph **only**
Deposition of Chief Toney Chaplin, September 8, 2017, page 67	Decl. of Jael Humphrey-Skomer Dkt. No. 176-1 12/12/16 Order, DE 101	**GRANTED IN PART** as to John Doe name and/or photograph **only**
Emails from Margaret Baumgartner to counsel for Plaintiff, September 22 & 28, 2017	Decl. of Jael Humphrey-Skomer Dkt. No. 176-1 12/12/16 Order, DE 101	**GRANTED IN PART** as to John Doe name and/or photograph **only**
Email from Anna Benvenutti Hoffman to counsel for Defendants, August 10, 2017	Decl. of Jael Humphrey-Skomer Dkt. No. 176-1 12/12/16 Order, DE 101	**GRANTED IN PART** as to John Doe name and/or photograph **only**

Defendants'AMFUS Dkt. No. 198 Opposition to Plaintiff's Daubert Motions

Document or Portion of Document to be Sealed	Evidence Offered in Support of Sealing	Order
Exhibit L copy of the excerpts of the confidential deposition of Joshua Bradley	Designated by Plaintiff's	**DENIED**
Exhibit GG copy of excerpts of the confidential deposition transcript of Chief Toney Chaplin	Designated by Plaintiff's	**GRANTED IN PART** as to John Doe name and/or photograph **only**

Defendants' AMFUS Dkt. No. 207 In Support of Reply to Defendants' Daubert Motions

Document or Portion of Document to be Sealed	Evidence Offered in Support of Sealing	Order
Exhibit II, copy of the excerpts of the confidential deposition of Linda Allen.	Plaintiff designated this as confidential; subsequently withdrawn	**DENIED** as moot

Defendants' AMFUS Dkt. No. 211 Reply Brief to Defendants' Daubert Motions

Document or Portion of Document to be Sealed	Evidence Offered in Support of Sealing	Order
Defendants' Reply Brief to Defendants' Daubert Motions	Plaintiff designated this as confidential; subsequently withdrawn	**DENIED** as moot

Defendants' AMFUS In Support of Summary Judgment (Dkt Nos. 264, 265, 266, 267)

Document or Portion of Document to be Sealed	Evidence Offered in Support of Sealing	Order
Dkt. No. 265-5 and Dkt. No. 265-6, Exhibit 20 to Request for Judicial Notice	12/12/16 Order, Dkt. No. 101	**GRANTED IN PART** as to John Doe name and/or photograph **only**
Dkt. No. 266-3, Exhibit A – Allen Depo	12/12/16 Order, Dkt. No. 101	**DENIED** as moot
Dkt. No. 266-5, Exhibit C – Bradley Depo	12/12/16 Order, Dkt. No. 101	**GRANTED IN PART** as to John Doe name and/or photograph **only**
Dkt. No. 266-7, Exhibit D – D'Amico Depo	12/12/16 Order, Dkt. No. 101	**GRANTED IN PART** as to John Doe name and/or photograph **only**
Dkt. No. 266-13, Exhibit G – Chron	12/12/16 Order, Dkt. No. 101	**GRANTED IN PART** as to John Doe name and/or photograph **only**

Dkt. No. 266-21, Exhibit P – Johnson Depo	12/12/16 Order, Dkt. No. 101	**GRANTED IN PART** as to John Doe name and/or photograph **only**
Dkt. No. 266-23, Exhibit R – Malo Kuka	12/12/16 Order, Dkt. No. 101	**GRANTED IN PART** as to John Doe name and/or photograph **only**
Dkt. No. 266-27, Exhibit HH – David Trulove Depo	12/12/16 Order, Dkt. No. 101	**GRANTED IN PART** as to John Doe name and/or photograph **only**
Dkt. No. 267-5, Portions of the declaration of Maureen D'Amico	12/12/16 Order, Dkt. No. 101	**GRANTED IN PART** as to John Doe name and/or photograph **only**
Dkt. No. 267-3, Portions of the declaration of Michael Johnson	12/12/16 Order, Dkt. No. 101	**GRANTED IN PART** as to John Doe name and/or photograph **only**
Dkt. No. 264-3, Portions of the Memorandum of Points and Authorities	12/12/16 Order, Dkt. No. 101	**GRANTED IN PART** as to John Doe name and/or photograph **only**
Dkt. No. 264-5, Portions of the Separate Statement of Undisputed Facts	12/12/16 Order, Dkt. No. 101	**GRANTED IN PART** as to John Doe name and/or photograph **only**

Plaintiff's AMFUS Dkt. No. 277 re: Motion to Seal At Trial

Document or Portion of Document to be Sealed	Evidence Offered in Support of Sealing	Order
Dkt. No. 277	12/12/16 Order, Dkt. No. 101	**GRANTED** as to entirety

Defendants' AMFUS Dkt. No. 294 re: Oppo to Motion to Seal At Trial

Document or Portion of Document to be Sealed	Evidence Offered in Support of Sealing	Order
Dkt. No. 294-2	12/12/16 Order, Dkt. No. 101	**GRANTED** as to entirety
Dkt. No. 294-3	12/12/16 Order, Dkt. No. 101	**GRANTED** as to entirety
Dkt. No. 294-4	12/12/16 Order, Dkt. No. 101	**GRANTED** as to entirety
Dkt. No. 294-5	12/12/16 Order, Dkt. No. 101	**GRANTED** as to entirety
Dkt. No. 294-6	12/12/16 Order, Dkt. No. 101	**GRANTED** as to entirety
Dkt. No. 294-7	12/12/16 Order, Dkt. No. 101	**GRANTED** as to entirety
Dkt. No. 294-8	12/12/16 Order, Dkt. No. 101	**GRANTED** as to entirety

Plaintiff's AMFUS In Support of Opposition to Summary Judgment (Dkt Nos. 307, 308, 309, 310, 311)

Document or Portion of Document Sought to be Sealed	Evidence Offered in Support of Sealing	Order
All redacted portions of Plaintiff's Response in Opposition to Motion for Summary Judgment	Philip Decl. in Supp. of Mot. to Seal ¶ 3	**GRANTED IN PART** as to John Doe name and/or photograph **only**
All redacted portions of Plaintiff's Responsive Separate Statement of Facts in Opposition to Defendants' Motion for Summary Judgment	Philip Decl. in Supp. of Mot. to Seal ¶ 3	**GRANTED IN PART** as to John Doe name and/or photograph **only**
Plaintiff's Exhibit 35, 39, 46	Philip Decl. in Supp. of Mot. to Seal ¶ 3	**GRANTED IN PART** as to John Doe name and/or photograph **only**
Plaintiff's Exh. 24, 32, 33, 24	CCP § 129	**GRANTED**
Plaintiff's Exh. 4, 6, 7, 9, 10, 11, 15, 16, 17, 19, 21, 22, 26, 42, 43, 45, 49, 50, 55, 56, 57, 62, 63, 64, 66, 67, 68, 69, 71, 72, 75, 76, 77, 78, 79, 80, 81, 82, 84, 85, 87, 88, 90, 91, 92, 93, 96, 98	Defendants designated (NOTE: no declaration from defendants filed in support)	**DENIED** except to the extent that the John Doe name and/or photograph appears in documents. No declaration in support of sealing anything additional was filed by the designating party.

Plaintiff's AMFUS Dkt. No. 314 In Support of Exh. 8 In Opposition to Summary Judgment

Document or Portion of Document Sought to be Sealed	Evidence Offered in Support of Sealing	Order
Plaintiff's Exh. 8	Defendants designated (NOTE: no declaration from defendants filed in support)	**DENIED** except to the extent that the John Doe name and/or photograph appears in documents. No declaration in support of sealing anything additional was filed by the designating party.

Plaintiff's AMFUS Dkt. No. 320 re Plaintiff's MIL 2

Document or Portion of Document Sought to be Sealed	Evidence Offered in Support of Sealing	Order
Portions of MIL #2	12/12/16 Order, Dkt. No. 101	**DENIED** – portions sought to be redacted do not include name or photograph of John Doe

Plaintiff's AMFUS Dkt. No. 322 re Plaintiff's MIL 3 Alleged Bad Acts of Plaintiff

Document or Portion of Document Sought to be Sealed	Evidence Offered in Support of Sealing	Order
Plaintiff's Motion *in Limine* #3, Exhibit A, Exhibit B	Philip Decl. Dkt. No. 322-1: Contains sensitive material that should not be accessible to the public	**DENIED** – insufficient support to seal

Plaintiff's AMFUS Dkt. No. 324 re Plaintiff's MIL 5 Alleged Bad Acts of Plaintiffs' Witnesses

Document or Portion of Document Sought to be Sealed	Evidence Offered in Support of Sealing	Order
Plaintiff's Motion in Limine #5	Philip Decl. Dkt. No. 324-1: Contains sensitive material that should not be accessible to the public	**DENIED** – insufficient support to seal

Plaintiff's AMFUS Dkt. No. 325 re Plaintiff's MIL 6 to Ask Leading Questions of Adverse Witnesses

Document or Portion of Document Sought to be Sealed	Evidence Offered in Support of Sealing	Order
Portions of Plaintiff's Motion *in Limine* # 6	12/12/16 Order, Dkt. No. 101	**GRANTED IN PART** as to John Doe name only
Exhibit C to Plaintiff's Motion *in Limine* #6	12/12/16 Order, Dkt. No. 101	**GRANTED**

Defendants' AMFUS Dkt. No. 339 In Support of Defendants' MILs

Document or Portion of Document Sought to be Sealed	Evidence Offered in Support of Sealing	Order
Baumgartner Decl. Exh C (D'Amico) and E (Johnson) to Defendants' Motions In Limine	Baumgartner Decl.: marked as confidential, contain confidential information	**DENIED** – insufficient support to seal

Plaintiff's AMFUS Dkt. No. 340 re Plaintiff's Reply to Sealing at Trial

Document or Portion of Document Sought to be Sealed	Evidence Offered in Support of Sealing	Order
Plaintiff's Reply in Support of Motion to Seal Limited Portions of Witness Testimony at Trial and Exhibits (entirety)	12/12/16 Order, Dkt. No. 101	**GRANTED** in its entirety.

Defendants' AMFUS Dkt. No. 361 re Defendants' Oppo to Plaintiff's MIL No. 3

Document or Portion of Document Sought to be Sealed	Evidence Offered in Support of Sealing	Ruling
Defendants' Opposition to Plaintiff's Motion in Limine Number Three	Plaintiff's designation and 12/12/16 Order, Dkt. No. 101;	**GRANT**
Exhibit D to the Declaration of Margaret W. Baumgartner in Support of Defendants' Opposition to Plaintiff's Motion in Limine Number Three	Plaintiff's designation and12/12/16 Order, Dkt. No. 101	**GRANT**
Defendants' Opposition to Plaintiff's Motion in Limine Number Five	12/12/16 Order, Dkt. No. 101	**GRANT**
Defendants' Opposition to Plaintiff's Motion in Limine Number Six	12/12/16 Order, Dkt. No. 101	**GRANT**

Plaintiff's AMFUS Dkt No. 364 re Declaration of Dr. Dale Watson

Document or Portion of Document South to be Sealed	Evidence Offered in Support of Sealing	Order
Expert Declaration of Dr. Dale Watson	Protective Order, Dkt. No. 57 contains medical information	**GRANT**

Plaintiff's AMFUS Dkt. No. 365 re Proposed Trial Witness List

Document or Portion of Document Sought to be Sealed	Evidence Offered in Support of Sealing	Order
Redacted portions of Plaintiff and Defendants' Proposed Trial Exhibit Lists at Pages 4, 10	12/12/16 Order, Dkt. No. 101	**GRANT**

Defendants' AMFUS Dkt. No. 370 re: Reply to Motion for Summary Judgment

Document or Portion of Document Sought to be Sealed	Evidence Offered in Support of Sealing	Ruling
Portions of Reply Memorandum of Points and Authorities in Support of Defendants' Motion for Summary Judgment.	Plaintiff's designation and 12/12/16 Order, Dkt. No. 101	**GRANTED**
Supplemental Baumgartner Declaration Ex. KK, portions of the deposition of Michael Johnson.	Plaintiff's designation and 12/12/16 Order, Dkt. No. 101	**GRANTED IN PART** as to John Doe name and/or photograph **only**
Supplemental Baumgartner Declaration Ex. MM, portions of the deposition of Maureen D'Amico.	Plaintiff's designation and 12/12/16 Order, Dkt. No. 101	**GRANTED IN PART** as to John Doe name and/or photograph **only**
Supplemental Baumgartner Declaration Ex. NN, portions of the deposition of Linda Allen.	Plaintiff's designation and 12/12/16 Order, Dkt. No. 101	**GRANTED IN PART** as to John Doe name and/or photograph **only**
Supplemental Baumgartner Declaration Ex. QQ, portions of the deposition of Joshua Bradley.	Plaintiff's designation and 12/12/16 Order, Dkt. No. 101	**GRANTED**

Plaintiff's AMFUS Dkt. No. 371 re: Exhibit List

Document or Portion of Document Sought to be Sealed	Evidence Offered in Support of Sealing	Order
Redacted portions of Plaintiff and Defendants' Proposed Trial Exhibit Lists at Pages 4, 10	12/12/16 Order, Dkt. No. 101	**GRANTED IN PART** as to John Doe name and/or photograph **only**

Plaintiff's AMFUS Dkt. No. 377 re: Portions of Meadows Deposition

Document or Portion of Document to be Sealed	Evidence Offered in Support of Sealing	Order
Ex. B (Pages 11, 58–147, of Latisha Meadows' deposition)	Protective Orders, Dkt. No. 57 because portions are medical information, and under 12/12/16 Order, Dkt. No. 101	**GRANTED** as to page 11; **GRANTED IN PART** with respect to page 58 and index; may only redact John Doe's name **DENIED** as to pages 59-147.

Accordingly, only the above documents or specified portions thereof shall remain under seal. All documents, or portions thereof, as to which a sealing request was withdrawn or sealing was denied shall be filed publically by the submitting party within seven (7) days of entry of this Order. *See* Civ. L.R. 79-5(f).

This terminates Docket Nos. 170, 175, 176, 177, 198, 207, 211, 264, 265, 266, 267, 277, 294, 307, 308, 309, 310, 311, 314, 320, 322, 324, 325, 339, 340, 361, 364, 365, 370, 371, and 377.

IT IS SO ORDERED.

Dated: February 23, 2018

YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT COURT JUDGE