

United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GIANNI VERSACE, S.P.A., et al.,
Plaintiffs,
v.
VERSACE 19.69 ABBIGLIAMENTO
SPORTIVO SRL, et al.,
Defendants.

Case No. [16-cv-03617-HSG](#)

**ORDER GRANTING
ADMINISTRATIVE MOTIONS TO
SEAL**

Re: Dkt. Nos. 211, 220, 239, 247, 251

Pending before the Court are the parties’ administrative motions to seal various documents pursuant to Civil Local Rule 79-5. Dkt. Nos. 211, 220, 239, 247, 251. The Court **GRANTS** the parties’ motions.

I. LEGAL STANDARD

Courts generally apply a “compelling reasons” standard when considering motions to seal documents. *Pintos v. Pac. Creditors Ass’n*, 605 F.3d 665, 678 (9th Cir. 2010) (quoting *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006)). “This standard derives from the common law right ‘to inspect and copy public records and documents, including judicial records and documents.’” *Id.* (quoting *Kamakana*, 447 F.3d at 1178). “[A] strong presumption in favor of access is the starting point.” *Kamakana*, 447 F.3d at 1178 (quotation omitted). To overcome this strong presumption, the party seeking to seal a judicial record attached to a dispositive motion must “articulate compelling reasons supported by specific factual findings that outweigh the general history of access and the public policies favoring disclosure, such as the public interest in understanding the judicial process” and “significant public events.” *Id.* at 1178-79 (quotation omitted). “In general, ‘compelling reasons’ sufficient to outweigh the public’s interest in disclosure and justify sealing court records exist when such ‘court files might have

1 become a vehicle for improper purposes,’ such as the use of records to gratify private spite,
2 promote public scandal, circulate libelous statements, or release trade secrets.” Id. at 1179
3 (quoting *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 598 (1978)). “The mere fact that the
4 production of records may lead to a litigant’s embarrassment, incrimination, or exposure to further
5 litigation will not, without more, compel the court to seal its records.” Id.

6 The Court must “balance[] the competing interests of the public and the party who seeks to
7 keep certain judicial records secret. After considering these interests, if the court decides to seal
8 certain judicial records, it must base its decision on a compelling reason and articulate the factual
9 basis for its ruling, without relying on hypothesis or conjecture.” Id. Civil Local Rule 79-5
10 supplements the compelling reasons standard set forth in *Kamakana*: the party seeking to file a
11 document or portions of it under seal must “establish[] that the document, or portions thereof, are
12 privileged, protectable as a trade secret or otherwise entitled to protection under the law . . . The
13 request must be narrowly tailored to seek sealing only of sealable material.” Civil L.R. 79-5(b).

14 Records attached to nondispositive motions, however, are not subject to the strong
15 presumption of access. See *Kamakana*, 447 F.3d at 1179. Because such records “are often
16 unrelated, or only tangentially related, to the underlying cause of action,” parties moving to seal
17 must meet the lower “good cause” standard of Rule 26(c) of the Federal Rules of Civil Procedure.
18 Id. at 1179-80 (quotation omitted). This requires only a “particularized showing” that “specific
19 prejudice or harm will result” if the information is disclosed. *Phillips ex rel. Estates of Byrd v.*
20 *Gen. Motors Corp.*, 307 F.3d 1206, 1210-11 (9th Cir. 2002); see also Fed. R. Civ. P. 26(c).
21 “Broad allegations of harm, unsubstantiated by specific examples of articulated reasoning” will
22 not suffice. *Beckman Indus., Inc. v. Int’l Ins. Co.*, 966 F.2d 470, 476 (9th Cir. 1992) (quotation
23 omitted).

24 **II. DISCUSSION**

25 The majority of documents and portions of documents that the parties seek to seal are
26 related to the parties’ motions for summary judgment. See Dkt. Nos. 220, 239, 247. These
27 documents are more than tangentially related to the underlying cause of action, and the Court
28 therefore applies the “compelling reasons” standard to evaluate them. The parties have provided a

1 compelling interest in sealing portions of these documents, elaborated in the table below, as the
 2 sealed documents contain confidential business and financial information relating to Defendants
 3 Versace 19.69 Abbigliamento Sportivo SRL and Theofanis Papadas, and numerous non-parties to
 4 this lawsuit, including Bluefly, Inc., Dillard’s Inc., Groupon, Inc., K&M Associates, L.P., Macy’s
 5 Inc., TJX Companies Inc., Zulily, LLC, and Burlington Stores, Inc. See *Apple Inc. v. Samsung*
 6 *Elects. Co., Ltd.*, No. 11-CV-01846-LHK, 2012 WL 6115623 (N.D. Cal. Dec. 10, 2012); see also
 7 *Agency Solutions.Com, LLC v. TriZetto Group, Inc.*, 819 F. Supp. 2d 1001, 1017 (E.D. Cal. 2011);
 8 *Linex Techs., Inc. v. Hewlett-Packard Co.*, No. C 13-159 CW, 2014 WL 6901744 (N.D. Cal. Dec.
 9 8, 2014) (holding sensitive financial information falls within the class of documents that may be
 10 filed under seal).

11 Apart from these documents, there are also two sealing requests accompanying the parties’
 12 stipulations to alter the case schedule to accommodate personal considerations presented by
 13 counsel. See Dkt. Nos. 211, 251. Because the underlying filings are not dispositive, the Court
 14 applies the lower “good cause” to evaluate these sealing requests. The Court is satisfied that the
 15 parties have made the necessary “particularized showing” that “specific prejudice or harm will
 16 result” if the information is disclosed. See *Phillips ex rel. Estates of Byrd*, 307 F.3d at 1210-11;
 17 *Corns v. Laborers Int’l Union of N. Am.*, 62 F. Supp. 3d 1105, 1111 n.3 (N.D. Cal. 2014) (“The
 18 Court finds that there are compelling reasons to seal this private, personal information which bears
 19 only a tangential relationship to the matters to be decided here.”).

20 The parties request the following portions of the various documents be sealed:

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Docket Number Public/(Sealed)	Document	Portion(s) Sought to be Sealed	Ruling (basis)
No Public Version Filed//211-4	Declaration of Rosemarie T. Ring in Support of Stipulation and [Proposed] Order Modifying Case Schedule	Entire document	GRANTED
220-3/220-4	Plaintiffs’ Motion for Summary Judgment	Pages 6, 18-20, 23, 35	GRANTED
220-5/220-6	Declaration of Zachary Briers in	Pages 8-10, 14, 18-21, 54-55, 61, 72-73, 75-81, 91-95	GRANTED

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	Support of Plaintiffs’ Motion for Summary Judgment (“Briers Decl.”)		
	220-7/220-8	Briers Decl., Ex. 30 (Expert Report of Dr. Serdari)	Pages 32, 33, 45, 52, 76-80, 84-85
	No Public Version Filed/220-9	Briers Decl., Ex. 38	Entire document
	No Public Version Filed/220-10	Briers Decl., Ex. 39	Entire document
	No Public Version Filed/220-11	Briers Decl., Ex. 41	Entire document
	No Public Version Filed/220-12	Briers Decl., Ex. 44	Entire document
	No Public Version Filed/220-13	Briers Decl., Ex. 46	Entire document
	No Public Version Filed/220-14	Briers Decl., Ex. 47	Entire document
	No Public Version Filed/220-15	Briers Decl., Ex. 85	Entire document
	No Public Version Filed/220-16	Briers Decl., Ex. 91	Entire document
	No Public Version Filed/220-17	Briers Decl., Ex. 93	Entire document
	No Public Version Filed/220-17	Briers Decl., Ex. 106	Entire document
	No Public Version Filed/220-19	Briers Decl., Ex. 107	Entire document
	No Public Version Filed/220-20	Briers Decl., Ex. 108	Entire document
	No Public Version Filed/220-21	Briers Decl., Ex. 114	Entire document
	No Public Version Filed/220-22	Briers Decl., Ex. 138	Entire document
	239-3/239-4	Plaintiffs’ Opposition to Defendants’ Motion for Partial Summary Judgment	Pages 6-7
	239-5/239-6	Declaration of Carolyn Luedtke in Support of Plaintiffs’ Opposition to Defendants’ Motion for Partial Summary Judgment (“Luedtke Decl.”)	Page 2
	No Public Version	Luedtke Decl., Ex.	Entire document

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Filed/239-7	163		
No Public Version Filed/247-3	Exhibit 171 to Declaration of Rosemarie T. Ring In Support of Plaintiffs' Reply in Support of Plaintiff's Motion for Summary Judgment	Entire document	GRANTED
No Public Version Filed/251-4	Declaration of Rosemarie T. Ring in Support of Stipulation and [Proposed] Order Modifying Case Schedule	Entire document	GRANTED

III. CONCLUSION

For the foregoing reasons, the Court **GRANTS** Dkt. Nos. 211, 220, 239, 247, and 251. Pursuant to Civil Local Rule 79-5(f)(1), documents filed under seal as to which the administrative motions are granted will remain under seal. The public will have access only to the redacted versions accompanying the administrative motions.

IT IS SO ORDERED.

Dated: 8/30/2018


HAYWOOD S. GILLIAM, JR.
United States District Judge