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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

GIORGIO ENEA,

Plaintiff,

v.

MERCEDES-BENZ USA, LLC, et al.,

Defendants.

Case No. 18-cv-02792-HSG

**ORDER DENYING PLAINTIFF'S  
ADMINISTRATIVE MOTION TO FILE  
UNDER SEAL**

Re: Dkt. No. 74

Pending before the Court is Plaintiff's administrative motion to file documents under seal. Dkt. No. 74. For the reasons set forth below, the Court **DENIES** Plaintiff's administrative motion.

**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 & Cty. 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 (quotations 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 (quotations 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 become a

1 vehicle for improper purposes,’ such as the use of records to gratify private spite, promote public  
2 scandal, circulate libelous statements, or release trade secrets.” Id. at 1179 (quoting *Nixon v.*  
3 *Warner Commc ’ns, Inc.*, 435 U.S. 589, 598 (1978)). “The mere fact that the production of records  
4 may lead to a litigant’s embarrassment, incrimination, or exposure to further litigation will not,  
5 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 must meet the lower “good cause” standard of  
15 Rule 26(c) of the Federal Rules of Civil Procedure, as such records “are often unrelated, or only  
16 tangentially related, to the underlying cause of action.” See *Kamakana*, 447 F.3d at 1179–80  
17 (quotations omitted). This requires a “particularized showing” that “specific prejudice or harm  
18 will result” if the information is disclosed. *Phillips ex rel. Estates of Byrd v. Gen. Motors Corp.*,  
19 307 F.3d 1206, 1210–11 (9th Cir. 2002); see also Fed. R. Civ. P. 26(c). “Broad allegations of  
20 harm, unsubstantiated by specific examples of articulated reasoning” will not suffice. *Beckman*  
21 *Indus., Inc. v. Int’l Ins. Co.*, 966 F.2d 470, 476 (9th Cir. 1992) (quotation omitted).

22 **II. DISCUSSION**

23 Plaintiff seeks to file under seal Exhibits 1 and 3 attached to his opposition to Defendant’s  
24 motion for summary judgment and portions in his opposition that reference the exhibits. Dkt. No.  
25 74. The only proffered justification for sealing is that the information was designated as  
26 “Confidential” by Defendant. Id. But a designation of confidentiality is not sufficient to establish  
27 that a document is sealable. See Civ. L. R. 79-5(d)(1)(A). “Confidential” is merely the parties’  
28 initial designation of confidentiality to establish coverage under the stipulated protective order.

1 See Verinata Health, Inc. v. Ariosa Diagnostics, Inc., No. 12-cv-05501-SI, 2015 WL 5117083, at  
2 \*5 (N.D. Cal. Aug. 31, 2015) (“But good cause ‘cannot be established simply by showing that the  
3 document is subject to a protective order or by stating in general terms that the material is  
4 considered to be confidential’”) (quoting Bain v. AstraZeneca LP, No. 09-cv-4147, 2011 WL  
5 482767, at \*1 (N.D. Cal. Feb. 7, 2011)). Thus, Plaintiff’s motion does not comply with Civil  
6 Local Rule 79-5(d)(1)(A). In addition, as the designating party for the materials, Defendant did  
7 not comply with Civil Local Rule 79-5(e)(1), because it did not file a declaration within four days  
8 of Plaintiff’s motion. See Civ. L.R. 79-5(e)(1).


9 Accordingly, the Court **DENIES** Plaintiff’s administrative motion to seal.

10 **III. CONCLUSION**

11 The Court **DENIES** Plaintiff’s administrative motion to file under seal, Dkt. No. 74, and  
12 **DIRECTS** Plaintiff to file public versions of all documents for which the proposed sealing has  
13 been denied within seven days of this order.

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15 **IT IS SO ORDERED.**

16 Dated: 2/19/2020

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18 HAYWOOD S. GILLIAM, JR.  
United States District Judge

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