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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION**

ROBERT HEATH, ET AL.,  
Plaintiffs,  
v.  
GOOGLE LLC,  
Defendant.

Case No. [15-cv-01824-BLF](#)

**ORDER GRANTING PLAINTIFFS’  
ADMINISTRATIVE MOTIONS TO  
SEAL**

[RE: ECF 311, 315]

Before the Court are Plaintiff Cheryl Fillekes and Opt-In Plaintiffs’ administrative motion to file under seal Plaintiffs’ Notice of Voluntary Withdrawal of Consent to Join Forms (ECF 311) and Plaintiffs’ administrative motion to file under seal a motion to withdraw as attorney of record for certain Opt-In Plaintiffs (ECF 315). For the reasons that follow, both motions to seal are GRANTED.

**I. LEGAL STANDARD**

“Historically, courts have recognized a ‘general right to inspect and copy public records and documents, including judicial records and documents.’” *Kamakana v. City & Cty. Of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (quoting *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 597 & n. 7 (1978)). Accordingly, when considering a sealing request, “a ‘strong presumption in favor of access’ is the starting point.” *Id.* (quoting *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003)). Parties seeking to seal judicial records relating to motions that are “more than tangentially related to the underlying cause of action” bear the burden of overcoming the presumption with “compelling reasons” that outweigh the general history of access and the public policies favoring disclosure. *Ctr. for Auto Safety v. Chrysler Grp.*, 809 F.3d 1092, 1099 (9th Cir. 2016); *Kamakana*, 447 F.3d at 1178–79.

However, “while protecting the public’s interest in access to the courts, we must remain

1 mindful of the parties’ right to access those same courts upon terms which will not unduly harm  
2 their competitive interest.” *Apple Inc. v. Samsung Elecs. Co., Ltd.*, 727 F.3d 1214, 1228–29 (Fed.  
3 Cir. 2013). Records attached to motions that are “not related, or only tangentially related, to the  
4 merits of a case” therefore are not subject to the strong presumption of access. *Ctr. for Auto*  
5 *Safety*, 809 F.3d at 1099; *see also Kamakana*, 447 F.3d at 1179 (“[T]he public has less of a need  
6 for access to court records attached only to non-dispositive motions because those documents are  
7 often unrelated, or only tangentially related, to the underlying cause of action.”). Parties moving  
8 to seal the documents attached to such motions must meet the lower “good cause” standard of  
9 Rule 26(c). *Kamakana*, 447 F.3d at 1179 (internal quotations and citations omitted). This  
10 standard requires a “particularized showing,” *id.*, that “specific prejudice or harm will result” if the  
11 information is disclosed. *Phillips ex rel. Estates of Byrd v. Gen. Motors Corp.*, 307 F.3d 1206,  
12 1210–11 (9th Cir. 2002); *see Fed. R. Civ. P. 26(c)*. “Broad allegations of harm, unsubstantiated  
13 by specific examples of articulated reasoning” will not suffice. *Beckman Indus., Inc. v. Int’l Ins.*  
14 *Co.*, 966 F.2d 470, 476 (9th Cir. 1992). A protective order sealing the documents during  
15 discovery may reflect the court’s previous determination that good cause exists to keep the  
16 documents sealed, *see Kamakana*, 447 F.3d at 1179–80, but a blanket protective order that allows  
17 the parties to designate confidential documents does not provide sufficient judicial scrutiny to  
18 determine whether each particular document should remain sealed. *See Civ. L.R. 79-5(d)(1)(A)*  
19 (“Reference to a stipulation or protective order that allows a party to designate certain documents  
20 as confidential is not sufficient to establish that a document, or portions thereof, are sealable.”).

21 In addition to making particularized showings of good cause, parties moving to seal  
22 documents must comply with the procedures established by Civ. L.R. 79-5. Pursuant to Civ. L.R.  
23 79-5(b), a sealing order is appropriate only upon a request that establishes the document is  
24 “sealable,” or “privileged or protectable as a trade secret or otherwise entitled to protection under  
25 the law.” “The request must be narrowly tailored to seek sealing only of sealable material, and  
26 must conform with Civil L.R. 79-5(d).” Civ. L.R. 79-5(b). In part, Civ. L.R. 79-5(d) requires the  
27 submitting party to attach a “proposed order that is narrowly tailored to seal only the sealable  
28 material” which “lists in table format each document or portion thereof that is sought to be

1 sealed,” Civ. L.R. 79-5(d)(1)(b), and an “unredacted version of the document” that indicates “by  
2 highlighting or other clear method, the portions of the document that have been omitted from the  
3 redacted version.” Civ. L.R. 79-5(d)(1)(d). “Within 4 days of the filing of the Administrative  
4 Motion to File Under Seal, the Designating Party must file a declaration as required by subsection  
5 79-5(d)(1)(A) establishing that all of the designated material is sealable.” Civ. L.R. 79-5(e)(1).

6 **II. DISCUSSION**

7 The Court has reviewed both motions to seal and the declarations submitted in support  
8 thereof. *See* ECF 311; Declaration of Daniel Kotchen, ECF 311-1; ECF 315; Declaration of  
9 Daniel Low, ECF 315-1. In both motions, the movants seek to file under seal the names of certain  
10 Opt-In Plaintiffs. First, Plaintiff Fillekes and the Opt-In Plaintiffs seek to seal the names of Opt-In  
11 Plaintiffs who wish to voluntarily withdraw their Consent to Join Forms, which the parties filed  
12 under seal pursuant to Court Order, *see* ECF 152. *See* ECF 311. Second, Plaintiffs seek to seal  
13 the names of certain Opt-In Plaintiffs for whom counsel would like to withdraw as attorney of  
14 record. *See* ECF 315.

15 Notices and motions to withdraw as counsel are non-dispositive filings to which the “good  
16 cause” standard applies. The Court finds that good cause exists to seal the Opt-In Plaintiffs’  
17 personal information in both filings. The Court has previously granted administrative motions to  
18 seal documents in this case containing the personal information of Google’s applicants, including  
19 their names. *See* ECF 197, 256, 298, 323. As with those motions, sealing this information is  
20 justified to maintain the confidentiality of the Plaintiffs’ personal information and to prevent their  
21 exposure to harm or identity theft. Moreover, both requests are narrowly tailored to seal only  
22 those portions of relevant filings disclosing the names of Opt-In Plaintiffs. As such, the Court  
23 finds good cause to seal portions of the Notice of Voluntary Withdrawal of Consent to Join Forms  
24 and portions of the Motion to Withdraw as Attorney of Record for Certain Opt-In Plaintiffs, and  
25 thus GRANTS both motions to seal.

26 As redacted versions of the notice and the motion to withdraw have been filed in the public  
27 record, and unredacted versions have been filed under seal, no further action is necessary.

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**IT IS SO ORDERED.**

Dated: August 7, 2018



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BETH LABSON FREEMAN  
United States District Judge