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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

STACY GUTHMANN,
Plaintiff,
v.
CLASSIC RESIDENCE MANAGEMENT
LIMITED PARTNERSHIP, et al.,
Defendants.

Case No.16-cv-02680-LHK
ORDER RE SEALING MOTIONS
Re: Dkt. Nos. 42, 60

Before the Court is Defendants’ administrative motion for file under seal, ECF No. 42, and Plaintiff’s administrative motion to file under seal, ECF No. 60. For the reasons discussed below, the Court GRANT Defendants’ motion to seal and GRANTS IN PART AND DENIES IN PART Plaintiff’s motion to seal.

“Historically, courts have recognized a ‘general right to inspect and copy public records and documents, including judicial records and documents.’” *Kamakana v. City & Cnty. 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)). Thus, when considering a sealing request, “a strong presumption in favor of access is the starting point.” *Id.* (internal quotation marks omitted).

1 Parties seeking to seal judicial records relating to motions that are “more than tangentially
2 related to the underlying cause of action,” *Ctr. for Auto Safety v. Chrysler Grp.*, 809 F.3d 1092,
3 1099 (9th Cir. 2016), bear the burden of overcoming the presumption with “compelling reasons
4 supported by specific factual findings” that outweigh the general history of access and the public
5 policies favoring disclosure. *Kamakana*, 447 F.3d at 1178–79 (9th Cir. 2006). Compelling reasons
6 justifying the sealing of court records generally exist “when such ‘court files might have become a
7 vehicle for improper purposes,’ such as the use of records to gratify private spite, promote public
8 scandal, circulate libelous statements, or release trade secrets.” *Id.* at 1179 (quoting *Nixon*, 435
9 U.S. at 598). However, “[t]he mere fact that the production of records may lead to a litigant’s
10 embarrassment, incrimination, or exposure to further litigation will not, without more, compel the
11 court to seal its records.” *Id.*

12 Records attached to motions that are “not related, or only tangentially related, to the merits
13 of a case,” are not subject to the strong presumption of access. *Ctr. for Auto Safety*, 809 F.3d at
14 1099; *see also Kamakana*, 447 F.3d at 1179 (“[T]he public has less of a need for access to court
15 records attached only to non-dispositive motions because those documents are often unrelated, or
16 only tangentially related, to the underlying cause of action.” (internal quotation marks omitted)).
17 Parties moving to seal records attached to motions unrelated or only tangentially related to the
18 merits of a case must meet the lower “good cause” standard of Rule 26(c) of the Federal Rules of
19 Civil Procedure. *Ctr. for Auto Safety*, 809 F.3d at 1098-99; *Kamakana*, 447 F.3d at 1179–80. The
20 “good cause” standard requires a “particularized showing” that “specific prejudice or harm will
21 result” if the information is disclosed. *Phillips v. Gen. Motors Corp.*, 307 F.3d 1206, 1210–11 (9th
22 Cir. 2002); *see Fed. R. Civ. P. 26(c)*. “Broad allegations of harm, unsubstantiated by specific
23 examples or articulated reasoning” will not suffice. *Beckman Indus., Inc. v. Int’l Ins. Co.*, 966 F.2d
24 470, 476 (9th Cir. 1992).

25 Pursuant to Rule 26(c), a trial court has broad discretion to permit sealing of court
26 documents for, inter alia, the protection of “a trade secret or other confidential research,

1 development, or commercial information.” Fed. R. Civ. P. 26(c)(1)(G). The Ninth Circuit has
2 adopted the definition of “trade secrets” set forth in the Restatement of Torts, holding that “[a]
3 trade secret may consist of any formula, pattern, device or compilation of information which is
4 used in one’s business, and which gives him an opportunity to obtain an advantage over
5 competitors who do not know or use it.” *Clark v. Bunker*, 453 F.2d 1006, 1009 (9th Cir. 1972)
6 (quoting Restatement (First) of Torts § 757 cmt. b). “Generally [a trade secret] relates to the
7 production of goods. . . . It may, however, relate to the sale of goods or to other operations in the
8 business. . . .” *Id.* (ellipses in original). In addition, the U.S. Supreme Court has recognized that
9 sealing may be justified to prevent judicial documents from being used “as sources of business
10 information that might harm a litigant’s competitive standing.” *Nixon*, 435 U.S. at 598.

11 In addition, parties moving to seal documents must comply with the procedures established
12 by Civil Local Rule 79-5. Pursuant to that rule, a sealing order is appropriate only upon a request
13 that establishes the document is “sealable,” or “privileged, protectable as a trade secret or
14 otherwise entitled to protection under the law.” Civ. L. R. 79-5(b). “The request must be narrowly
15 tailored to seek sealing only of sealable material, and must conform with Civil L.R. 79-5(d).” *Id.*
16 Civil Local Rule 79-5(d), moreover, requires the submitting party to attach a “proposed order that
17 is narrowly tailored to seal only the sealable material” and that “lists in table format each
18 document or portion thereof that is sought to be sealed,” as well as an “unredacted version of the
19 document” that “indicate[s], by highlighting or other clear method, the portions of the document
20 that have been omitted from the redacted version.” *Id.* R. 79-5(d)(1).

21 In the instant case, both Defendants’ and Plaintiff’s motions to file under seal are made in
22 connection with Defendants’ motion for summary judgment. Motions for summary judgment are
23 dispositive motions and are “more than tangentially related to the underlying cause of action.” *Ctr.*
24 *for Auto Safety*, 809 F.3d at 1099. Therefore, the compelling reasons standard applies to the instant
25 motions to seal. *Kamakana*, 447 F.3d at 1177 (“[T]o retain any protected status for documents
26 attached to a summary judgment motion, the proponent must meet the ‘compelling reasons’
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1 standard and not the lesser ‘good cause’ determination.”).

2 In support of the motions to seal, the parties have filed the following declarations:

3 (1) Declaration of Susan Spiller, see ECF No. 42-1;

4 (2) Declaration of Paul Smoot, ECF No. 60-1.

5 Defendants’ motion to file under seal seeks to seal a report of suspected elder abuse under
6 Welfare Institutions Code (“WIC”) § 15630 that Susan Spiller submitted to the Santa Clara
7 County Ombudsman and Adult Protective Services on or about May 26, 2017. ECF No. 42.
8 Defendants argue that compelling reasons exist to seal this report under WIC § 15633. WIC §
9 15633 provides that reports under § 15630 “shall be confidential” and may only be disclosed in
10 particular circumstances not present in the instant case. Civil Local Rule 79-5 states that material
11 is sealable if it is “entitled to protection under the law.” Civ. L. R. 79-5(b). Thus, the Court finds
12 that compliance with WIC § 15633’s confidentiality requirements constitutes a compelling reason
13 to seal the report of suspected elder abuse. Therefore, the Court GRANTS Defendants’ motion to
14 file under seal.

15 Plaintiff’s motion seeks to file under seal Exhibit K, Exhibit W, and Exhibit GG to the
16 Declaration of Peter McMahon in Support of Plaintiff’s Opposition to Defendants’ Motion for
17 Summary Adjudication. ECF No. 60. Exhibit W contains a record of a report made to the Santa
18 Clara County Department of Adult Protective Services. As discussed above, the confidentiality of
19 this report is protected by WIC § 15633. Therefore, the Court finds that compelling reasons exist
20 to seal Exhibit W.

21 With respect to Exhibit K and Exhibit GG, Plaintiff claims that sealing is warranted
22 because these documents were designated as confidential “under the terms of the protective order
23 entered by the Court.” ECF No. 60 at 4. However, under the Court’s Civil Local Rules,
24 “[r]eference to a stipulation or protective order that allows a party to designate certain documents
25 as confidential is not sufficient to establish that a document, or portions thereof, are sealable.” Civ.
26 L.R. 79-5(d)(1)(A). Additionally, although Plaintiff claims that Exhibit K, if disclosed, “could
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1 cause harm to Defendants and their employees in their respective communities,” Plaintiff asserts
2 only that this establishes “good cause” to seal Exhibit K. ECF No. 60 at 4. As discussed above, the
3 applicable standard for the instant motions to seal is the compelling reasons standard, not the good
4 cause standard. Moreover, a vague claim that information “could cause harm” is not sufficiently
5 specific to establish compelling reasons to justify sealing. *Id.*; *see also Beckman Indus.*, 966 F.2d
6 at 476 (holding that “[b]road allegations of harm, unsubstantiated by specific examples or
7 articulated reasoning” do not suffice to justify sealing). Similarly, Plaintiff’s claim that Exhibit
8 GG is “proprietary information” is conclusory and does not constitute a compelling reason for
9 sealing. Thus, Plaintiff has not established compelling reasons to justify sealing either Exhibit K
10 or Exhibit GG.

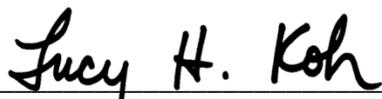
11 For these reasons, Court GRANTS Plaintiff’s motion to seal Exhibit W and DENIES
12 WITHOUT PREJUDICE Plaintiff’s motion to seal Exhibit K and Exhibit GG. Plaintiff shall file
13 any renewed motion to seal within seven days of the instant order.

14 **IT IS SO ORDERED.**

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16 Dated: July 19, 2017

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18 LUCY H. KOH
19 United States District Judge

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