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

UNITED STATES OF AMERICA,
Petitioner,
v.
ADIL HIRAMANNEK,
Respondent.

Case No. [17-cv-03392-BLF](#)

**ORDER DENYING RESPONDENT’S
MOTION TO PROCEED
ANONYMOUSLY; DENYING MOTION
TO SEAL**

[Re: ECF 38]

Before the Court is Respondent Adil Hirananeek’s (“Respondent”) “Motion to Proceed Anonymously, or Seal the Case, or Request for a Narrowly Tailored Sealing.” *See* ECF 38. On July 26, 2017, the Court denied Respondent’s motion to seal documents without prejudice. ECF 35. Respondent submitted a renewed motion requesting the Court to (1) allow Respondent to proceed anonymously; (2) order the entirety of this case and its related case, 17-cv-03389-BLF, to be sealed from the public; (3) seal identified entire documents in each case (“seal preference #1”); or (4) permit identified redactions (“seal preference #2”). Petitioner the United States of America (“Petitioner”) opposed Respondent’s motion. ECF 45.

The Court has previously reserved ruling on this motion to seal in light of the fact that Respondent continued to contest that he has not been served in compliance with Rule 4 and thus is

1 not properly before the Court. As such, the Court granted Respondent’s motion to dismiss for lack
2 of personal jurisdiction with leave to amend. *See* ECF 55. Respondent has continuously filed
3 numerous documents in this case and related Case No. 17-cv-03389, including the instant motion
4 to proceed anonymously, that the Court warned Respondent raised issues beyond jurisdictional
5 arguments that could be construed as a general appearance. *See* ECF 61. After his motion to
6 dismiss for lack of personal jurisdiction was granted, Respondent then “disengaged” from the two
7 cases and “waited to be ‘properly’ served.” *See* ECF 65 at 1.

8 All of the documents submitted by Respondent in this case have remained sealed pending a
9 ruling on the instant motion. As the Court has now scheduled an evidentiary hearing on
10 Respondent’s renewed motion to dismiss for lack of personal jurisdiction, ECF 77, the Court also
11 turns to Respondent’s pending sealing motion in order to address his insistence that this case,
12 including the upcoming evidentiary hearing, must be entirely closed to the public. For the reasons
13 discussed below, the Court DENIES Respondent’s motion to proceed anonymously and DENIES
14 his motion to seal.

15 **I. LEGAL STANDARD**

16 “Historically, courts have recognized a ‘general right to inspect and copy public records
17 and documents, including judicial records and documents.’” *Kamakana v. City & Cty. of*
18 *Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (quoting *Nixon v. Warner Commc’ns, Inc.*, 435
19 U.S. 589, 597 & n. 7 (1978)). Accordingly, when considering a sealing request, “a ‘strong
20 presumption in favor of access’ is the starting point.” *Id.* (quoting *Foltz v. State Farm Mut. Auto.*
21 *Ins. Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003)). Parties seeking to seal judicial records relating to
22 motions that are “more than tangentially related to the underlying cause of action” bear the burden
23 of overcoming the presumption with “compelling reasons” that outweigh the general history of
24 access and the public policies favoring disclosure. *Ctr. for Auto Safety v. Chrysler Grp.*, 809 F.3d
25 1092, 1099 (9th Cir. 2016); *Kamakana*, 447 F.3d at 1178–79.

26 However, “while protecting the public’s interest in access to the courts, we must remain
27 mindful of the parties’ right to access those same courts upon terms which will not unduly harm
28 their competitive interest.” *Apple Inc. v. Samsung Elecs. Co., Ltd.*, 727 F.3d 1214, 1228–29 (Fed.

1 Cir. 2013). Records attached to motions that are “not related, or only tangentially related, to the
2 merits of a case” therefore are not subject to the strong presumption of access. *Ctr. for Auto*
3 *Safety*, 809 F.3d at 1099; *see also Kamakana*, 447 F.3d at 1179 (“[T]he public has less of a need
4 for access to court records attached only to non-dispositive motions because those documents are
5 often unrelated, or only tangentially related, to the underlying cause of action.”). Parties moving
6 to seal the documents attached to such motions must meet the lower “good cause” standard of
7 Rule 26(c). *Kamakana*, 447 F.3d at 1179 (internal quotations and citations omitted). This
8 standard requires a “particularized showing,” *id.*, that “specific prejudice or harm will result” if the
9 information is disclosed. *Phillips ex rel. Estates of Byrd v. Gen. Motors Corp.*, 307 F.3d 1206,
10 1210–11 (9th Cir. 2002); *see Fed. R. Civ. P. 26(c)*. “Broad allegations of harm, unsubstantiated
11 by specific examples of articulated reasoning” will not suffice. *Beckman Indus., Inc. v. Int’l Ins.*
12 *Co.*, 966 F.2d 470, 476 (9th Cir. 1992).

13 In addition to making particularized showings of good cause, parties moving to seal
14 documents must comply with the procedures established by Civ. L.R. 79-5. Pursuant to Civ. L.R.
15 79-5(b), a sealing order is appropriate only upon a request that establishes the document is
16 “sealable,” or “privileged or protectable as a trade secret or otherwise entitled to protection under
17 the law.” “The request must be narrowly tailored to seek sealing only of sealable material, and
18 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
19 submitting party to attach a “proposed order that is narrowly tailored to seal only the sealable
20 material” which “lists in table format each document or portion thereof that is sought to be
21 sealed,” Civ. L.R. 79-5(d)(1)(b), and an “unredacted version of the document” that indicates “by
22 highlighting or other clear method, the portions of the document that have been omitted from the
23 redacted version.” Civ. L.R. 79-5(d)(1)(d). “Within 4 days of the filing of the Administrative
24 Motion to File Under Seal, the Designating Party must file a declaration as required by subsection
25 79-5(d)(1)(A) establishing that all of the designated material is sealable.” Civ. L.R. 79-5(e)(1).

26 **III. DISCUSSION**

27 **A. Request to Proceed Anonymously**

28 The Court has reviewed Respondent’s motion and declaration in support thereof. *See ECF*

1 38, 38-1. Respondent’s primary request in this motion is to proceed anonymously. The Court
2 DENIES Respondent’s motion, as Respondent’s circumstances do not implicate a privacy interest
3 that overrides the public’s interest in open court proceedings.

4 Litigants may preserve their anonymity in judicial proceedings only “in special
5 circumstances when the party’s need for anonymity outweighs prejudice to the opposing party and
6 the public’s interest in knowing the party’s identity.” *Does I thru XXIII v. Advanced Textile*
7 *Corp.*, 214 F.3d 1058, 1068–69 (9th Cir. 2000). Thus, the Ninth Circuit instructs district courts to
8 conduct a balancing test to determine whether a party may proceed anonymously in judicial
9 proceedings. *Id* at 1068. Moreover, the Ninth Circuit has only deemed this balancing test met in
10 three situations in which parties have been allowed to proceed anonymously: (1) when
11 identification creates a risk of retaliatory physical or mental harm; (2) when anonymity is
12 necessary to preserve privacy in a matter of a sensitive and highly personal nature; and (3) when
13 the anonymous party is compelled to admit his or her intention to engage in illegal conduct,
14 thereby risking criminal prosecution. *Id.*, 214 F.3d at 1068. Respondent has not established that
15 his case falls into any of these categories, and the Court does not find this to be an exceptional or
16 unusual case that warrants anonymity.

17 Even in the versions of his documents filed under seal, Respondent heavily redacted the
18 evidence in support of his motion to proceed anonymously. For example, the Court is unable to
19 review the content of the exhibits to Respondent’s declaration in support of his motion. *See* ECF
20 38-1, 41-1. From what the Court can gather from the unredacted portions of Respondent’s filings,
21 the thrust of Respondent’s argument is that the publication of his identity and financial
22 circumstances in this case will increase the risk of harm to Respondent from unnamed “predators”
23 and their “agents.” ECF 38. Respondent’s declaration in support of his motion to seal states that
24 he is at imminent risk of harm and irreparable injury from “certain individuals.” ECF 38-1. In
25 support of this contention, Respondent refers to a redacted temporary restraining order and a
26 redacted final restraining order from the state of New Jersey issued over 20 years ago. *See* Case
27 No. 17-cv-03389, ECF 40. Respondent also describes an assault in April 2009 by an unnamed
28 “perpetrator” against an elder affiliated with Respondent. Respondent further declares that he has

1 been a victim of “physical & non-physical abuse by two predators and their agents.” ECF 38-1.
2 Respondent claims to receive death threats and harassment by said “perpetrator” and the
3 “perpetrator’s agent.” *Id.*

4 The Court has the discretion to decide whether to permit a party to proceed anonymously.
5 *See Advanced Textile Corp.*, 214 F.3d at 1068. Here, the facts presented to the Court do not
6 amount to a risk of “retaliatory” harm. *Id.* Unlike the plaintiffs in *Advanced Textile*, the risk of
7 harm to Respondent is entirely unrelated to his involvement in this case. As alleged in the
8 unredacted portions of his filings, Respondent has faced threats for over two decades from
9 unnamed “predators” with no involvement in this judicial enforcement proceeding by the IRS.
10 ECF 38. In contrast, the plaintiffs in *Advanced Textile* were foreign garment workers who feared
11 that the disclosure of their involvement in a labor class action against their employers would
12 subject them to deportation and arrest by the Chinese government. 214 F.3d at 1065.

13 Furthermore, Respondent’s reliance on *Anonymous v. C.I.R.*, 127 T.C. 89 (2006) is
14 misplaced. In *C.I.R.*, the court held that the petitioner, a foreign national, could proceed
15 anonymously because if his identity or financial circumstances were disclosed, the safety of
16 petitioner and his family would be in jeopardy from the “rampant” kidnapping problem in
17 petitioner’s home country. The court determined that in this “unique” situation the petitioner had
18 sufficiently demonstrated a risk of severe harm that outweighed the risk of prejudice to the
19 respondent and the public’s interest in access to judicial records. *Id.* at 94. Respondent has not
20 made such a showing in this case. The unredacted portions of Respondent’s declaration and
21 exhibits do not demonstrate that Respondent faces “retaliation” or imminent harm as a direct result
22 of his public involvement in this case. Furthermore, unlike the parties permitted to proceed
23 anonymously in the cases above, Respondent resides in the United States of America where the
24 rule of law protects citizens and residents from the types of threats Respondent fears, as evidenced
25 by the restraining orders he was able to secure against the “predator.”

26 The Court also does not find that this matter—a proceeding to enforce an IRS summons—
27 is a matter of “sensitive and highly personal nature.” *Advanced Textile*, 214 F.3d at 1068 at 3.
28 “The most compelling situations [in which anonymity is permitted] involve matters which are

1 highly sensitive, such as social stigmatization, real danger of physical harm, or where the injury
2 litigated against would occur as a result of the disclosure of the plaintiff’s identity.” *Doe v.*
3 *Rostker*, 89 F.R.D. 158, 162 (N.D. Cal. 1981). In other words, there must be a strong social
4 interest in concealing a party’s identity or a connection between the alleged injury and
5 participation in the litigation, neither of which is present in this case. *Id.*

6 The Court also determines that “the public’s interest in the case would be best served by
7 requiring that the litigants reveal their identities.” *Advanced Textile*, 214 F.3d at 1068.
8 Respondent has not cited to any persuasive authority on the issue of anonymity in a proceeding to
9 enforce an IRS summons, and he has not convincingly articulated any real or threatened injury to
10 him that will occur *as a result* of his identity being disclosed in the context of these proceedings.
11 The Court notes that in this district alone, Respondent has been involved in at least three cases that
12 publicly bear his name, further undermining his request to proceed anonymously in this
13 proceeding. *See Hiranamek et al v. Clark et al.* 3:13-cv-00228; *The People of the State of*
14 *California v. Hiranamek* 5:14-cv-4640; *Hiranamek v. California Judicial Council et al.* 5:15-cv-
15 04377. The Court finds that permitting anonymity in this context “runs afoul of the public’s
16 common law right of access to judicial proceedings.” *Id.* at 1067.

17 **B. Motion to Seal**

18 In the alternative to proceeding anonymously, Respondent renews his request to seal this
19 case and the related case 17-cv-03389-BLF. Respondent provides the Court with three options: to
20 seal the cases in their entirety, to seal a number of documents in their entirety, or to seal portions
21 of each document identified in Respondent’s chart. *See* ECF 38.

22 Respondent’s renewed motion still fails to articulate compelling reasons for the Court to
23 seal these cases in their entirety. A party moving to seal a document in whole or in part must file a
24 declaration establishing that the identified material is “sealable.” Civ. L.R. 79-5(d)(1)(A).
25 Respondent provides a “sealing preferences” chart that divides documents between those that are
26 “dispositive” and those that are “non-dispositive” in each case. Respondent then articulates two
27 preferences: (1) to seal the identified document in its entirety; or (2) seal portions of the identified
28 document. However, Respondent fails to articulate either good cause or compelling reasons for

1 any of the sealing requests. In support of Respondent’s requests to seal entire documents, he
2 either states that the document is “non-dispositive” and “meets the good cause standard,” or is
3 “dispositive” and “meets the compelling standard.” ECF 38. Respondent again only identifies
4 high-level categories of sealable information (many of which are inapplicable such as the attorney-
5 client privilege). Furthermore, Respondent’s requests to seal the identified documents in their
6 entirety are not “narrowly tailored” to a recognized category of sealable material. Civ. L.R. 79-
7 5(b).

8 Respondent’s final sealing preference and proposed redactions are also insufficient to
9 satisfy the standards governing a motion to seal. The Court has reviewed the extensive list of
10 redactions set forth by Respondent and concludes that Respondent does not satisfy the applicable
11 standard to seal the identified portions of the documents. For example, Respondent requests that
12 the title of the now discharged Order to Show Cause be redacted so as not to include the words
13 “Enforcement of Internal Revenue Summons.” Respondent provides no reasoning as to why this
14 information is “sealable.” In fact, Respondent seeks to redact virtually all references to the IRS
15 summons and the IRS’s efforts to locate Respondent. Respondent’s proposed redactions include
16 this Court’s references in its orders to the IRS summons underlying this case, which
17 unquestionably requires “compelling reasons” to seal. Respondent fails to articulate any
18 compelling reasons to overcome the presumption of public access to the judicial process.

19 The Court also rejects Respondent’s assertion that tax return information cannot be
20 published in a summons enforcement proceeding. As the Government points out, Title 26, United
21 States Code Section 6103 (h)(4)(a) specifically authorizes the IRS to disclose return information in
22 proceedings to determine or collect a taxpayer’s liability. *See* ECF 45 at 3. Moreover,
23 Respondent does not articulate compelling reasons to seal information related to the IRS’s efforts
24 to locate his residence, or any other information in the documents submitted by the Government.
25 The Court reminds Respondent that he retains the ability to withdraw *his own* documents filed in
26 the record to the extent he is concerned with the confidentiality and privacy of information within
27 them.

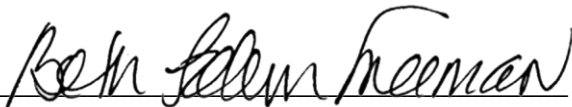
28 For the foregoing reasons, the sealing motion at ECF 38 is DENIED. The Court remains

1 amenable to a sealing motion that is narrowly tailored to the redaction of sealable personal
2 information such as Respondent's social security number. However, Respondent is advised that
3 further requests to seal non-sensitive information will result in denial of his motion *with prejudice*.
4 Should Respondent have a narrowly tailored request to seal supported by compelling reasons, he
5 may renew his motion no later than 10 days from the filing of this order. If the motion is not
6 renewed in time or if no declaration is submitted within four days of the filing of the renewed
7 motion, Respondent's unredacted documents shall be filed in the public record. Civil L.R. 79-
8 5(e)(1), (2).

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IT IS SO ORDERED.

Dated: November 30, 2017


BETH LABSON FREEMAN
United States District Judge