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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

In re FERRERO LITIGATION

CASE NO. 11-CV-205 H (CAB)
**ORDER GRANTING *EX PARTE*
APPLICATION TO FILE
UNDER SEAL**

On October 10, 2011, Defendant Ferrero U.S.A., Inc. (“Ferrero”) filed a motion to seal the unredacted version of Ferrero’s response in opposition to Plaintiffs’ motion for class certification, and the declaration of Bernard F. Kreilmann in support of Ferrero’s opposition to Plaintiffs’ motion for class certification. (Doc. No. 73.) Specifically, Ferrero seeks to file under seal footnote 5 on page 7 of its opposition, and paragraphs 19 through 29 of the declaration of Bernard F. Kreilmann. (Id. at 4.) Ferrero’s motion indicates that the documents it seeks to seal contain confidential, proprietary, and commercially sensitive financial information which, if disclosed, could be potentially prejudicial to Ferrero’s business or operations. (Id. at 3-4.)

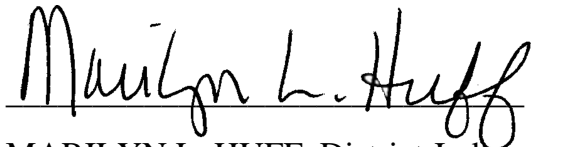
“Historically, courts have recognized a ‘general right to inspect and copy public records and documents, including judicial records and documents.’” Kamakana v. City & Cnty of Honolulu, 447 F.3d 1172, 1178 (9th Cir. 2006) (quoting Nixon v. Warner Commc’ns., Inc., 435 U.S. 589, 597 & n.7 (1978)). Except for documents that are traditionally kept secret, there

1 is “a strong presumption in favor of access to court records.” Foltz v. State Farm Mut. Auto.
2 Ins. Co., 331 F.3d 1122, 1135 (9th Cir. 2003); see also Kamakana, 447 F.3d at 1178-79. “A
3 party seeking to seal a judicial record then bears the burden of overcoming this strong
4 presumption by meeting the compelling reasons standard. That is, the party must articulate
5 compelling reasons supported by specific factual findings, ... that outweigh the general history
6 of access and the public policies favoring disclosure, such as the public interest in
7 understanding the judicial process.” Kamakana, 447 F.3d at 1178-79 (citations and quotation
8 marks omitted). The presumed right to access to court proceedings and documents can be
9 overcome “only by an overriding right or interest ‘based on findings that closure is essential
10 to preserve higher values and is narrowly tailored to serve that interest.’” Oregonian Publ’g
11 Co. v. United States Dist. Court, 920 F.2d 1462, 1465 (9th Cir.1990) (quoting Press-Enterprise
12 Co. v. Superior Court, 446 U.S. 501, 510 (1985)).

13 The Court concludes that good cause exists to seal the requested documents.
14 Accordingly, the Court GRANTS Defendant’s motion to file documents in support of their
15 opposition to Plaintiffs’ motion for class certification under seal.

16 **IT IS SO ORDERED.**

17 DATED: October 11, 2011

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19 MARILYN L. HUFF, District Judge
20 UNITED STATES DISTRICT COURT
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