

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**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 21, 2011, Plaintiffs filed an *ex parte* application to file under seal documents in connection with Plaintiffs’ reply in support of their motion for class certification. (Doc. No. 84.) Specifically, Plaintiffs seek to file under seal the unredacted reply in support of Plaintiffs’ motion for class certification, the unredacted Declaration of Melanie Persinger and unredacted versions of Exhibits 1-2 attached thereto. (*Id.* at 2.) Plaintiffs indicate that good cause exists for sealing these documents, because they contain confidential, proprietary, and commercially sensitive financial information which, if disclosed, could harm Ferrero’s ability to compete in the marketplace. (*Id.* at 4-5.)

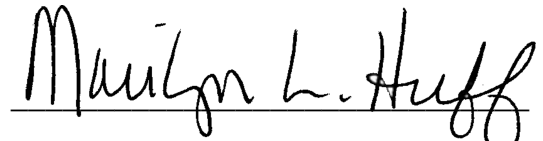
“Historically, courts have recognized a ‘general right to inspect and copy public records and documents, including judicial records and documents.’” Kamakana v. City & Cnty of Honolulu, 447 F.3d 1172, 1178 (9th Cir. 2006) (quoting Nixon v. Warner Commc’ns., Inc., 435 U.S. 589, 597 & n.7 (1978)). Except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

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

12 The Court concludes that good cause exists to seal the requested documents.
13 Accordingly, the Court GRANTS Plaintiffs’ *ex parte* application to file under seal the
14 unredacted reply in support of Plaintiffs’ motion for class certification, the unredacted
15 Declaration of Melanie Persinger and unredacted versions of Exhibits 1-2 attached thereto.

16 **IT IS SO ORDERED.**

17 DATED: October 24, 2011



MARILYN L. HUFF, District Judge
UNITED STATES DISTRICT COURT

18
19
20
21
22
23
24
25
26
27
28