

1
2
3
4
5
6
7
8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
10

11 SAN DIEGO COMIC CONVENTION, a
12 California non-profit corporation,
13 Plaintiff,

14 v.

15 DAN FARR PRODUCTIONS, a Utah
16 limited liability company; DANIEL
17 FARR, an individual; and BRYAN
18 BRANDENBURG, an individual,
19 Defendants.

Case No.: 14-cv-1865 AJB (JMA)

**ORDER GRANTING BOTH
PLAINTIFF AND DEFENDANTS'
MOTIONS TO SEAL**

(Doc. Nos. 278, 284)

19 Presently before the Court are both Plaintiff San Diego Comic Convention
20 (“Plaintiff”) and Defendants Dan Farr Productions, Daniel Farr, and Bryan Brandenburg’s
21 (“Defendants”) motion to file documents under seal. (Doc. Nos. 278, 284.) As explained
22 more fully below, the Court **GRANTS** both motions.
23

24 Courts have historically recognized a “general right to inspect and copy public
25 records and documents, including judicial records and documents.” *Nixon v. Warner*
26 *Comm’ns, Inc.*, 435 U.S. 589, 597 & n.7 (1978). “Unless a particular court record is one
27 ‘traditionally kept secret,’ a ‘strong presumption in favor of access’ is the starting point.”
28 *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (quoting *Foltz*

1 *v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003)). In order to
2 overcome this strong presumption, a party seeking to seal a judicial record must articulate
3 justifications for sealing that outweigh the public policies favoring disclosure. *See*
4 *Kamakana*, 447 F.3d at 1178–79. “In turn, the court must ‘conscientiously balance[] the
5 competing interests’ of the public and the party who seeks to keep certain judicial records
6 secret.” *Id.* at 1179 (citation omitted).

7 “After considering these interests, if the court decides to seal certain judicial records,
8 it must ‘base its decision on a compelling reason and articulate the factual basis for its
9 ruling, without relying on hypothesis or conjecture.’” *Id.* (quoting *Hagestad v. Tragesser*,
10 49 F.3d 1430, 1434 (9th Cir. 1995)). However, where the material is, at most, “tangentially
11 related” to the merits of the case, the request to seal may be granted on a showing of “good
12 cause.” *Ctr. For Auto Safety v. Chrysler Grp. LLC.*, 809 F.3d 1092, 1097 (9th Cir. 2016).

13 Defendants seek to seal their amended memorandum of points and authorities in
14 support of their ex parte motion for reconsideration as the motion contains confidentiality
15 designations pursuant to the protective order. (Doc. No. 278 at 2.) Plaintiff requests that
16 the Court seal its opposition to Defendants’ ex parte application as it discloses confidential
17 financial information of the parties and has also been designated confidential under the
18 protective order. (Doc. No. 284 at 1–2.)

19 After a careful review of the documents, the Court finds both parties’ motions to seal
20 warranted. First, the Court notes that case law makes clear that documents that were given
21 protective designations under a protective order are already determined to satisfy the “good
22 cause” standard as they are meant “to protect [the] information from being disclosed to the
23 public by balancing the needs for discovery against the need for confidentiality.” *Phillips*
24 *v. Gen. Motors Corp.*, 307 F.3d 1206, 1213 (9th Cir. 2002). Additionally, compelling
25 reasons exist to seal the documents as they contain private financial records of both parties,
26 as well as refer to the expert reports of Clarke B. Nelson and Patrick F. Kennedy,
27 documents already sealed by this Court. *See Apple Inc. v. Samsung Elec. Co.*, 727 F.3d
28 1214, 1221 (Fed. Cir. 2013); *see also Nixon*, 435 U.S. at 598 (the court may ensure its

1 records are not used as “sources of business information that might harm a litigant’s
2 competitive standing”).

3 Based on the foregoing, finding that the parties’ desire to keep the documents
4 confidential outweighs the public’s need for access to the ex parte application and
5 opposition, the Court **GRANTS** both parties’ motions to seal.

6
7 **IT IS SO ORDERED.**

8 Dated: October 25, 2017

9 
10 Hon. Anthony J. Battaglia
11 United States District Judge
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28