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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

LOU BAKER, individually and on behalf
of all others similarly situated,

Plaintiffs,

v.

SEAWORLD ENTERTAINMENT, INC.,
et al.,

Defendants.

Case No.: 14cv2129-MMA (AGS)

**ORDER REQUIRING PLAINTIFFS
TO SUBMIT SUPPLEMENTAL
BRIEFING RE: MOTIONS TO FILE
UNDER SEAL;**

**AND SETTING DEADLINE FOR
THE PARTIES TO FILE
OBJECTIONS TO DOCUMENTS
DESIGNATED AS CONFIDENTIAL**

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Class Representatives Arkansas Public Employees Retirement System and Pensionskassen for Børne-Og Ungdomspædagoger (“Plaintiffs”) and Defendants SeaWorld Entertainment, Inc. (“SeaWorld”), James M. Heaney, Marc Swanson, and the Blackstone Group L.P. (collectively, “Defendants”) move to file under seal certain documents and exhibits in connection with Defendants’ motion for summary judgment and the parties’ respective *Daubert* motions. In total, there are twenty (20) motions to file under seal pending before the Court. *See* Doc. Nos. 345, 348, 350, 352, 356, 360, 368, 371, 374, 377, 382, 384, 387, 403, 405, 408, 412, 415, 418, 421.

1 In support of their motions to file under seal, Defendants cite to both the Protective
2 Order entered in this case (*see* Doc. No. 158) and the compelling reasons standard,
3 articulating why compelling reasons exist to seal each document. Additionally,
4 Defendants agree in large part that compelling reasons exist to seal the documents
5 designated by Plaintiffs as confidential in this action.

6 Plaintiffs rely solely on the Protective Order and maintain that they reserve the
7 right to challenge Defendants' confidentiality designations. The Protective Order permits
8 a producing party to "designate as 'Confidential' information that has not been made
9 public and that the Disclosing Party believes in good faith constitutes a trade secret or
10 other confidential research, development or commercial information, specifically
11 including any information for which applicable federal, state or foreign law requires
12 confidential treatment." *Id.* ¶ 4. The Protective Order further permits a party to object to
13 another party's designation of information as "Confidential" at "any stage in the
14 proceedings" by providing written notification to counsel for the designating party. *Id.* ¶
15 15. If the dispute is not resolved between the parties within fifteen (15) days of receipt of
16 notice of the objection, the objecting party may move the Court for a ruling on the
17 objection. *See id.* If counsel for any party or non-party files any confidential material,
18 the party must file such information under seal. *See id.* ¶ 16. "Filing a document under
19 seal is without prejudice to any party's right to argue to the Court that the document is
20 not Confidential and need not be preserved under seal." *Id.*

21 The Court has conducted a thorough and extensive review of the documents the
22 parties seek to file under seal. The Court finds it inefficient and inappropriate to grant a
23 motion to file under seal without considering the applicable legal standard. This is
24 further complicated by the fact that a party can object and argue that such information
25 need not be preserved under seal "*any stage in the proceedings.*" *Id.* ¶ 15 (emphasis
26 added); *see Foltz v. State Farm Mut. Auto Ins. Co.*, 331 F.3d 1122, 1138 (9th Cir. 2003)
27 (noting that reliance on a protective order to seal documents filed with the court is
28 problematic because a blanket protective order "is by nature overinclusive.") (internal

1 quotation marks and citation omitted).

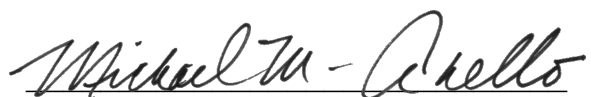
2 Accordingly, in the interests of judicial economy, and in order for the Court to
3 fully prepare for the upcoming hearing on Defendants' motion for summary judgment
4 and the parties' respective *Daubert* motions, the Court concludes that supplemental
5 briefing is warranted. Specifically, Plaintiffs must file a brief, not to exceed ten (10)
6 pages, explaining why the documents and exhibits they wish to file under seal meet the
7 applicable legal standard, on or before **July 12, 2019**.

8 Additionally, to the extent the parties seek to file any objections to materials
9 designated as confidential, each side may file a single brief outlining their respective
10 objections, not to exceed ten (10) pages, on or before **July 12, 2019**.

11 Further, while the Protective Order remains in full force and continues to bind the
12 parties, the Court has discretion to adhere to a given procedure set forth in the Protective
13 Order but is not obligated to do so. Thus, in the interests of judicial economy, any future
14 motion(s) to file documents under seal must address the appropriate legal standard and
15 explain why good cause or compelling reasons exist to seal such documents.

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17 **IT IS SO ORDERED.**

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19 Dated: July 1, 2019



20 HON. MICHAEL M. ANELLO
21 United States District Judge
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