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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 SCHOULEE CONES, et al.,
12 Plaintiffs,
13 v.
14 PAREXEL INTERNATIONAL
15 CORPORATION, et al.,
16 Defendants.

Case No.: 3:16-cv-03084-L-BGS

**ORDER DENYING PLAINTIFF'S
MOTION TO FILE DOCUMENTS
UNDER SEAL [Doc. 86]**

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18 Pending before the Court is Plaintiff's motion to file documents under seal [Doc.
19 120].) Sealing court records implicates the "general right to inspect and copy public
20 records and documents, including judicial records and documents." *Nixon v. Warner*
21 *Commc'ns, Inc.*, 435 U.S. 589, 597 & n.7 (1978). The lack of opposition to a motion to
22 seal therefore does not automatically resolve it. *See Foltz v. State Farm Mut. Auto Ins.*
23 *Co.*, 331 F.3d 1128, 1130 & *passim* (9th Cir. 2003). Aside from "grand jury transcripts
24 and warrant materials in the midst of a pre-indictment investigation," a strong
25 presumption applies in favor of public access to judicial records. *Kamakana v. City and*
26 *County of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006). Accordingly, a party seeking
27 to seal a judicial record bears the burden of overcoming the strong presumption of public
28 access by meeting the "compelling reasons" standard. *Id.* at 1178.

1 Plaintiff's sole argument for filing the documents at issue under seal is the fact that
2 these documents were designated as confidential pursuant to the terms of a protective
3 order. That a document is designated confidential pursuant to a protective order is of
4 little weight when it comes to sealing documents which are filed with the Court. *See San*
5 *Jose Mercury News, Inc. v. U.S. Dist. Ct.(Saldivar)*, 187 F.3d 1096, 1103 (9th Cir. 1999);
6 *Beckman Indus. v. Int'l Ins. Co.*, 966 F.2d 470, 475-76 (9th Cir. 1992); *Confederated*
7 *Tribes of Siletz Indians of Or. v. Weyerhaeuser Co.*, 340 F. Supp. 2d 1118, 1121 (D. Or.
8 2003). By nature, protective orders are over inclusive, *see Beckman*, 966 F.2d at 476,
9 because prior to signing, the judge typically does not have the opportunity to analyze
10 whether any particular document should be sealed. *See San Jose Mercury News*, 187
11 F.3d at 1103; *Foltz*, 331 F.3d at 1133. Whether a document designated as confidential
12 pursuant to a protective order should be sealed must therefore usually be determined *de*
13 *novo*. *See Weyerhaeuser*, 340 F. Supp. 2d at 1121. Plaintiffs' reliance on the protective
14 order is insufficient to meet the compelling reasons standard for sealing court filings
15 related to a class certification motion.

16 For the foregoing reasons, Plaintiff's motion is **DENIED**. The exhibits, which
17 were lodged under seal, will not be considered. This denial is without prejudice to refileing
18 the exhibits without sealing or filing a renewed motion to seal that actually presents a
19 proper argument as to why there are compelling reasons to deny public access. Any new
20 application to seal must be filed by April 14, 2018, include the requisite showing, and
21 designate specific portions of the exhibits for sealing.

22 **IT IS SO ORDERED.**

23 Dated: April 10, 2018

24 
25 Hon. M. James Lorenz
26 United States District Judge
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