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8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA  
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11 PACIFIC MARINE PROPELLERS,  
12 INC.,  
13 Plaintiff,  
14 v.  
15 WARTSILA DEFENSE, INC., et al,  
16 Defendants.

Case No.: 17-cv-555-L-NLS

**ORDER DENYING DEFENDANTS'  
MOTION FOR AN ORDER  
PERMITTING DEFENDANTS TO  
FILE DOCUMENTS UNDER SEAL**

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18 Pending before the Court is Defendants' unopposed motion to file under seal 32  
19 exhibits in support of their summary judgment motion. For the reasons which follow, the  
20 motion is denied.

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

1 to seal a judicial record bears the burden of overcoming the strong presumption of public  
2 access by meeting the “compelling reasons” standard. *Id.* at 1178. The compelling  
3 reasons standard applies to all motions except those that are only “tangentially related to  
4 the merits of a case.” *Center for Auto Safety v. Chrysler Grp. LLC*, 809 F.3d 1092, 1101  
5 (9th Cir. 2016). Defendants' summary judgment motion is more than tangentially related  
6 to the merits. *See Kamakana*, 447 F.3d at 1179.

7 To meet its burden, the moving party must make a "particularized showing,"  
8 *Kamakana*, 447 F.3d at 1180 (internal quotation marks and citation omitted) and, further,  
9 must articulate compelling reasons supported by specific factual findings  
10 that outweigh the general history of access and the public policies favoring  
11 disclosure, such as the public interest in understanding the judicial process.  
12 In turn, the court must conscientiously balance the competing interests of the  
13 public and the party who seeks to keep certain judicial records secret. After  
14 considering these interests, if the court decides to seal certain judicial  
15 records, it must base its decision on a compelling reason and articulate the  
16 factual basis for its ruling, without relying on hypothesis or conjecture.

17 In general, “compelling reasons” sufficient to outweigh the public's interest  
18 in disclosure and justify sealing court records exist when such court files  
19 might have become a vehicle for improper purposes, such as the use of  
20 records to gratify private spite, promote public scandal, circulate libelous  
21 statements, or release trade secrets. The mere fact that the production of  
22 records may lead to a litigant's embarrassment, incrimination, or exposure to  
23 further litigation will not, without more, compel the court to seal its records.


24 *Id.* at 1178-79 (internal quotation marks, brackets and citations omitted).

25 Defendants' request is based primarily on the claims of proprietary and security-  
26 sensitive nature of the documents. They request sealing each of the 32 exhibits in its  
27 entirety, a total of 239 pages. Although their arguments in support of sealing may be  
28 sufficient to warrant sealing portions of the exhibits, based on review of the exhibits, it  
appears that every listed exhibit does not warrant sealing in its entirety.

1 For the foregoing reasons, Defendants' motion is denied without prejudice to  
2 publicly file redacted versions of the exhibits, and move to seal only the portions as to  
3 which a particularized showing can be made.

4 **IT IS SO ORDERED.**

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6 Dated: September 25, 2018

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8 Hon. M. James Lorenz  
9 United States District Judge

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