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CLERK U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

AL OTRO LADO, INC., *et al.*,
Plaintiffs,
v.
KIRSTEN NIELSEN, Secretary, U.S.
Department of Homeland Security, in her
official capacity, *et al.*,
Defendants.

Case No.: 3:17-cv-02366-BAS-KSC

**ORDER REGARDING PLAINTIFF'S
MOTION TO FILE DOCUMENTS
UNDER SEAL**

[Doc. No. 158]

Before the Court is defendants' Motion to File Documents Under Seal. [Doc. No. 159]. Specifically, defendants have submitted Supplemental Briefing Regarding Defendants' Motion for Protective Order, the Supplemental Declaration of Johnny L. Armijo, and the Supplemental Declaration of Heather M Robinson. [Doc. No. 158]. Defendants brings this Motion pursuant to Local Rule 79.2(c) asserting that good cause exists in favor of sealing the documents. For the reasons explained in more detail below, defendants Motion to File Documents Under Seal is **GRANTED**.

Documents filed under seal are not accessible to the public. In the Ninth Circuit, there is a strong presumption in favor of access to court records. *Hagestad v. Tragesser*, 49 F.3d 1430, 1434 (9th Cir. 1995) (recognizing strong presumption in context of civil trial).

1 A party seeking to seal a judicial record bears the burden of overcoming this strong
2 presumption by meeting the “compelling reasons” standard. *Foltz v. State Farm Mut. Auto.*
3 *Ins. Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003). That is, the party must “articulate[]
4 compelling reasons supported by specific factual findings.” *Id.* (internal citation omitted).
5 The court must “conscientiously balance[] the competing interests” of the public and the
6 party who seeks to keep certain judicial records secret. *Foltz*, 331 F.3d at 1135. After
7 considering these interests, if the court decides to seal certain judicial records, it must “base
8 its decision on a compelling reason and articulate the factual basis for its ruling, without
9 relying on hypothesis or conjecture.” *Hagestad*, 49 F.3d at 1434 (internal citation omitted).

10 In general, “compelling reasons” sufficient to outweigh the public’s interest in
11 disclosure and justify sealing court records exist when “court files might have become a
12 vehicle for improper purposes,” such as the use of records to gratify private spite, promote
13 public scandal, circulate libelous statements, or release trade secrets. *Nixon v. Warner*
14 *Comme’ns, Inc.*, 435 U.S. 589, 598 & n. 7 (1978).

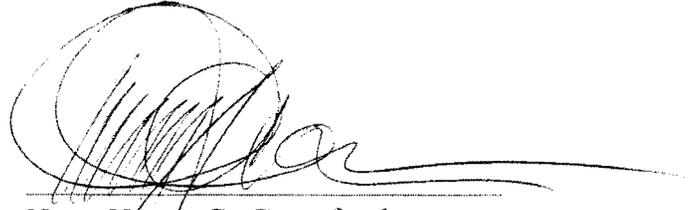
15 Here, the information defendants seeks to file under seal relates to the technical
16 surveillance capabilities of the U.S. Customs and Border Patrol (“CBP”) at ports of entry
17 (“POEs”) across the U.S. southern border and specific information regarding CBP
18 contracts and cost estimates. [Doc. No. 158 at pp. 1-2]. The documents also describe in
19 detail the surveillance infrastructure at certain POEs, “as well as potential vulnerabilities
20 related to the cybersecurity of [said] infrastructure.” [*Id.* at p. 3]. Defendants contend that
21 the release of the information “would jeopardize not only operations at those [POEs], but
22 also the safety and security of those working in and around the [POEs].” [*Id.*]. The
23 supporting declarations and briefing also contain specific and confidential “contracting
24 information.” [*Id.*]. Defendants contend the disclosure of cost estimates for “information
25 technology support services and equipment at various ports of entry” provided by certain
26 contractors would “harm [the] contractor’s competitiveness.” [*Id.*].

27 Accordingly, because the Court finds the above-mentioned grounds to be compelling
28 reasons that outweigh the public’s interest in disclosure, the Court **GRANTS** plaintiff’s

1 motion to file under seal. Defendants' may file the following under seal: Supplemental
2 Brief Regarding Defendants' Motion for Protective Order; (2) Supplemental Declaration
3 of Johnny L. Armijo; and (3) the Supplemental Declaration of Heather M. Robinson. [Doc.
4 No. 155]

5 **IT IS SO ORDERED.**

6 Dated: March 9, 2018

A handwritten signature in black ink, appearing to read 'Karen S. Crawford', written over a horizontal line. The signature is fluid and cursive, with a long horizontal flourish extending to the right.

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8 Hon. Karen S. Crawford
9 United States Magistrate Judge
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