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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 PAYMENT LOGISTICS LIMITED,
12 Plaintiff,
13 v.
14 LIGHTHOUSE NETWORK, LLC;
15 SHIFT4 CORPORATION; AND SHIFT4
16 PAYMENTS, LLC,
17 Defendants.

Case No.: 18-cv-0786-L-AGS

**ORDER GRANTING
APPLICATIONS TO FILE UNDER
SEAL [Docs. 60, 71, 76, 79, 83]**

18 Pending before the Court are a number unopposed applications to file under seal
19 portions of Plaintiff Payment Logistics Limited's ("PLL") Amended Complaint ("FAC")
20 and portions of the briefing related to Defendants' Lighthouse Network, LLC, Shift4
21 Corporation, Shift4 Payments, LLC ("Shift4") motion to dismiss [docs. 60, 71, 76, 79, 83].
22 For the reasons which follow, each application is GRANTED.

23 Sealing court records implicates the "general right to inspect and copy public records
24 and documents, including judicial records and documents." *Nixon v. Warner Commc'ns,*
25 *Inc.*, 435 U.S. 589, 597 & n.7 (1978). The lack of opposition to a motion to seal therefore
26 does not automatically resolve it. *See Foltz v. State Farm Mut. Auto Ins. Co.*, 331 F.3d
27 1128, 1130 & *passim* (9th Cir. 2003). Aside from "grand jury transcripts and warrant
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1 materials in the midst of a pre-indictment investigation,” a strong presumption applies in
2 favor of public access to judicial records. *Kamakana v. City and County of Honolulu*, 447
3 F.3d 1172, 1178 (9th Cir. 2006). Accordingly, a party seeking to seal a judicial record
4 bears the burden of overcoming the strong presumption of public access by meeting the
5 “compelling reasons” standard. *Id.* at 1178. The compelling reasons standard applies to
6 all motions except those that are only “tangentially related to the merits of a case.” *Center*
7 *for Auto Safety v. Chrysler Grp. LLC*, 809 F.3d 1092, 1101 (9th Cir. 2016). Plaintiff's
8 motion for class certification, which Defendant seeks to oppose in part through documents
9 it wants to have sealed, is more than tangentially related to the merits. *See Wal-Mart*
10 *Stores, Inc. v. Dukes*, 131 S. Ct. 2541, 2552 & n.6 (2011) (although in ruling on class
11 certification the court does not decide the merits of the case, the inquiry overlaps with the
12 merits inquiry); *see also Ellis v. Costco Wholesale Corp.*, 657 F.3d 970, 981 (9th Cir. 2011)
13 (the merits of a plaintiff's substantive claims are often highly relevant in determining
14 whether to grant class certification).

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

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

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

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3 Both parties' requests are based primarily on the highly sensitive nature of
4 documents PLL refers to and quotes in its FAC. These documents bear relevance to
5 Shift4's internal discussions regarding business research, business strategy, projections,
6 operation, and other confidential, proprietary, and sensitive information. The trade secret
7 nature of these documents is sufficient to meet the compelling reasons standard. *See Apple*
8 *Inc. v. Psystar Corp.*, 658 F.3d 1150, 1162 (9th Cir. 2011) ("The publication of materials
9 that could result in infringement upon trade secrets has long been considered a factor that
10 would overcome this strong presumption [in favor of access to documents.]") (citing *EEOC*
11 *v. Erection Co. Inc.*, 900 F.2d 168, 170 (9th Cir. 1990)). Accordingly, each application is
12 granted to the extent Shift4's confidential business records are at issue.

13 For the foregoing reason, each application to seal is GRANTED. The Clerk is
14 directed to file under seal the following: (1) the redacted portions of FAC, (2) portions of
15 Shift4's memorandum of points and authorities in support of Shift4's motion to dismiss
16 PLL's FAC, (3) the redacted portions of PLL's opposition to Shift4's motion to dismiss,
17 (4) the redacted portions of PLL's counter motion to Shift4's request for judicial notice
18 and exhibits, and (5) the redacted portions of Shift4's reply memorandum of points and
19 authorities in support of Shift4's motion to dismiss.

20 **IT IS SO ORDERED.**

21 Dated: June 14, 2019

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23 Hon. M. James Lorenz
24 United States District Judge
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