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11UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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FLEMMING KRISTENSEN,

Plaintiff,

v.

CREDIT PAYMENT SERVICES, INC., et al.,

Defendants.

Case No. 2:12-cv-00528-APG-PAL

**ORDER**

(Mtn to Seal – Dkt. #186)

12 This matter is before the court on Defendants Credit Payment Services, Inc.'s, Pioneer  
13 Services', LeadPile LLC's, and Enova International, Inc.'s Motion for Leave to File Documents  
14 Under Seal Pursuant to Civil L.R. 10-5 (Dkt. #186) filed May 28, 2014. The court has  
15 considered the Motion.

16 Defendants seek an order, pursuant to Local Rule of Civil Practice 10-5, allowing them to  
17 file Exhibit 3 to the Declaration of Gregory T. Wolf in Support of Defendants' Reply to Second  
18 Joint Motion to Extend the Deadlines for Discovery, Dispositive Motions, and Proposed Joint  
19 Pretrial Order (Dkt. #187-1) filed May 28, 2014. Exhibit 3 consists of the deposition transcript  
20 of Plaintiff Fleming Kristensen. Defendants assert this transcript was designated confidential  
21 under the Protective Order (Dkt. #32) and Amended Protective Order (Dkt. #145) entered by the  
22 court in this case because it contains confidential and proprietary business information.

23 As an initial matter, Local Rule 10-5(b) requires that a party should file confidential  
24 documents under seal along with a contemporaneous motion to seal. Defendants have not filed  
25 Exhibit 3 to the Wolf Declaration under seal, and the court to evaluate it. Additionally,  
26 Defendants' reliance on the Protective Order and Amended Protective Order is misplaced. The  
27 Protective Order and the Amended Protective Order provide that their purpose is to facilitate  
28 discovery exchanges. See Protective Order (Dkt. #32) at ¶ 1; Amended Protective Order (Dkt.


1 #145) at ¶ 1. The parties did not show, and the court did not find, that any specific documents  
2 were secret or confidential. At the hearing on the motion to compel on May 29, 2014 counsel for  
3 Plaintiff indicated he did not believe the entire transcript was entitled to be sealed, and did not  
4 request that the portion cited by Defendant be sealed.

5 The Ninth Circuit has held that there is a strong presumption of access to judicial records.  
6 *See Kamakana v. City & County of Honolulu*, 447 F.3d 1172, 1179 (9th Cir. 2006). The court  
7 carved out an exception to this presumption of access for materials attached to non-dispositive  
8 motions where the movant makes a particularized showing of good cause under Rule 26(c) of the  
9 Federal Rules of Civil Procedure that rebuts the public's right of access. *See Foltz v. State Farm*  
10 *Mut. Ins. Co.*, 331 F.3d 1122, 1135, 1138 (9th Cir. 2003); *Phillips v. Gen. Motors Corp.*, 307  
11 F.3d 1206, 1213 (9th Cir. 2002). The parties have not made such a showing.

12 Accordingly,

13 **IT IS ORDERED** that Defendants' Motion for Leave to File Under Seal (Dkt. #186) is  
14 DENIED.

15 Dated this 4th day of June, 2014.

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18 PEGGY A. ZEEN  
19 UNITED STATES MAGISTRATE JUDGE  
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