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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

NNN SIENA OFFICE PARK I2, LLC, et al.,)
)
) Plaintiffs,)
)
) vs.)
)
) WACHOVIA BANK NATIONAL)
) ASSOCIATION,)
)
) Defendant.)

Case No. 2:12-cv-01524-LRH-PAL

ORDER

Before the court is the parties’ Stipulation and Order Regarding Production of Confidential Information (Dkt. #25) which the court approved, with the exception of paragraph twelve, to facilitate discovery in this case. This order reminds counsel that there is a presumption of public access to judicial files and records. A party seeking to file a confidential document under seal must file a motion to seal and must comply with the Ninth Circuit’s directives in *Kamakana v. City and County of Honolulu*, 447 F.3d 1172 (9th Cir. 2006).

Paragraph eleven of the parties’ proposed stipulation was not approved and was deleted by the court. That paragraph required counsel to file information governed by the proposed stipulation under seal but did not require the filing party to file a contemporaneous motion for leave to file under seal as required by Local Rule 10-5(b), which provides:

Unless otherwise permitted by statute, rule or prior Court order, papers filed with the Court under seal shall be accompanied by a motion for leave to file those documents under seal, and shall be filed in accordance with the Court’s electronic filing procedures. If papers are filed under seal pursuant to prior Court order, the papers shall bear the following notation on the first page, directly under the case number: “FILED UNDER SEAL PURSUANT TO COURT ORDER DATED _____.” All papers filed under seal will remain sealed until such time as the Court may deny the motion to seal or

1 enter an order to unseal them, or the documents are unsealed pursuant to
2 Local Rule.

3 *Id.* Documents filed under seal are not accessible to the public.

4 The court has approved the parties' blanket protective order to facilitate their discovery
5 exchanges. However, the parties have not shown, and court has not found, that any specific documents
6 are secret or confidential. The parties have not provided specific facts supported by affidavits or
7 concrete examples to establish that a protective order is required to protect any specific trade secret or
8 other confidential information pursuant to Rule 26(c) or that disclosure would cause an identifiable and
9 significant harm. The Ninth Circuit has held that there is a presumption of public access to judicial
10 files and records and that parties seeking to maintain the confidentiality of documents attached to non-
11 dispositive motions must show good cause exists to overcome the presumption of public access. *See*
12 *Kamakana*, 447 F.3d at 1179. Parties seeking to maintain the secrecy of documents attached to
13 dispositive motions must show compelling reasons sufficient to overcome the presumption of public
14 access. *Id.* at 1180.

15 **IT IS ORDERED:**

- 16 1. Paragraph twelve of the parties' Stipulation and Order Regarding Production of
17 Confidential Information (Dkt. #25) that does not requires them to file a
18 contemporaneous motion for leave to file under seal as required by Local Rule 10-5(b) is
19 **NOT APPROVED** and is **DENIED**.
- 20 2. The parties shall comply with the requirements of LR 10-5(b) and the Ninth Circuit's
21 decision in *Kamakana* with respect to any documents filed under seal.

22 Dated this 19th day of November, 2012.

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25 PEGGY A. ZEEN
26 UNITED STATES MAGISTRATE JUDGE
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