

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

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4 NEWMARK GROUP, INC., G&E
5 ACQUISITION COMPANY, LLC and BGC
6 REAL ESTATE OF NEVADA, LLC

Case No. 2:15-cv-00531-RFB-EJY

7 Plaintiffs,

ORDER

8 v.

9 AVISON YOUNG (CANADA) INC.;
10 AVISON YOUNG (USA) INC.; AVISON
11 YOUNG-NEVADA, LLC, MARK ROSE,
12 THE NEVADA COMMERCIAL GROUP,
13 JOHN PINJUV, and JOSEPH KUPIEC; DOES
14 1 through 5; and ROE BUSINESS ENTITIES
15 6 through 10,

16 Defendants.

17 Before the Court is Defendants' Motion for Leave to File Exhibit Under Seal and Redact
18 Portions of Defendants' Supplemental Brief in Opposition to Plaintiffs' Motion for Protective Order
19 (ECF No. 381).

20 As explained in *Kamakana v. City and County of Honolulu*, 447 F.3d 1172 (9th Cir. 2006),
21 courts generally recognize a "right to inspect and copy public records and documents, including
22 judicial records and documents." *Id.* at 1178 citing *Nixon v. Warner Commc'ns, Inc.*, 435 U.S. 589,
23 597 & n. 7 (1978). This right is justified by the interest of citizens who "keep a watchful eye on the
24 workings of public agencies." *Id.* As Defendants know, a party seeking to file a document under
25 seal must file a motion to seal and must comply with the Ninth Circuit's directives in *Kamakana*. A
26 party seeking to maintain the secrecy of documents attached to dispositive motions must show
27 compelling reasons sufficient to overcome the presumption of public access. *Id.* If a sealing order
28 is permitted, it must be narrowly tailored. *Press-Enterprise Co. v. Superior Ct. of Cal., Riverside*
Cty., 464 U.S. 501, 512 (1984). When a document is attached to a non-dispositive motion, which is
the case here, the "public policies that support the right of access to dispositive motions ... do not
apply with equal force . . ." *Kamakana*, 447 F.3d at 1179 (citation omitted). "Thus a particularized

1 showing, under the good cause standard of Rule 26(c), will suffice to warrant preserving the secrecy
2 of sealed discovery material attached to non-dispositive motions.” *Id.* at 1180 (citations, quotation
3 marks and brackets omitted).

4 Here, Defendants demonstrate good cause for filing Exhibit 1 to their Supplement Brief
5 under seal. This exhibit contains highly confidential business information the public disclosure of
6 which could result in misuse that would harm Defendants. The Court further approves Defendants’
7 request to redact portions of their Supplemental Brief necessary to maintain the confidentiality of
8 information contained in Exhibit 1.

9 Accordingly,

10 IT IS HEREBY ORDERED that Defendants’ Motion for Leave to File Exhibit Under Seal
11 and Redact Portions of Defendants’ Supplemental Brief in Opposition to Plaintiffs’ Motion for
12 Protective Order (ECF No. 381) is GRANTED.

13 IT IS FURTHER ORDERED that Exhibit 1 to Defendants’ Supplement Brief shall remain
14 sealed.

15 IT IS FURTHER ORDERED that Defendants’ Supplemental Brief, in its unredacted form
16 (ECF No. 382), shall remain sealed.

17 DATED: June 8, 2020

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20 ELAYNA J. YOUCHAK
21 UNITED STATES MAGISTRATE JUDGE
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