

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3 * * *

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

7 Plaintiffs,

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.

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

ORDER

17 Before the Court is Plaintiffs' Motions for Leave to Seal Exhibits to, and Redact Sections of,
18 Plaintiffs' Motion for Leave to File Third Amended Complaint. ECF No. 459.

19 As the party seeking to seal a judicial record, Plaintiffs must meet their burden of overcoming
20 the strong presumption in favor of access and public policies favoring disclosure. *Kamakana v. City
21 and Cnty. of Honolulu*, 447 F.3d 1172, 1178-79 (9th Cir. 2006) (holding that those who seek to
22 maintain the secrecy of documents attached to dispositive motions must meet the high threshold of
23 showing that "compelling reasons" support secrecy). However, where a party
24 seeks to seal documents attached to a non-dispositive motion, the "public policies that support the
25 right of access to dispositive motions ... do not apply with equal force" *Kamakana*, 417 F.3d at
26 1179 (citation omitted).

27 The mere fact that the public release of documents may lead to a party's embarrassment,
28 incrimination, or exposure to further litigation will not alone compel the court to seal its
records. *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1136 (9th Cir. 2003). Compelling
reasons require a demonstration of something more, such as when court files have become a vehicle
for improper purposes, including use of records to gratify private spite, promote public scandal,

1 disseminate libelous statements, or circulate trade secrets. *Nixon v. Warner Commc'ns*, 435 U.S.
2 589, 598 (1978).

3 The Court considered Plaintiffs' Motion and the documents sought to be sealed. The Court
4 finds Exhibits 2, 23, 24, 25, 26, 28, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 44, 45, 46, 47, 48, 49,
5 50, 51, 52, 53, 53, 55, 56, and 58 are properly sealed. The Exhibits contain confidential and
6 proprietary information the disclosure of which may lead to misuse and harm to the parties.

7 The Court has also considered and finds well supported Plaintiffs' request to provisionally
8 seal Exhibit 57 pending discussions with Defendants, and to redact references to information derived
9 from these exhibits on pages 9, 10, and 13 of its publicly filed Motion for Leave to File Third
10 Amended Complaint.

11 Accordingly, IT IS HEREBY ORDERED that Plaintiffs' Motions for Leave to Seal Exhibits
12 to, and Redact Sections of, Plaintiffs' Motion for Leave to File Third Amended Complaint (ECF No.
13 459) is GRANTED.

14 IT IS FURTHER ORDERED that Exhibits 2, 23, 24, 25, 26, 28, 31, 32, 33, 34, 35, 36, 37,
15 38, 39, 40, 41, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 53, 55, 56, and 58 to Plaintiffs' Motion for
16 Leave to File Third Amended Complaint are properly sealed and shall remain sealed.

17 IT IS FURTHER ORDERED that Plaintiffs' request to redact pages 9, 10, and 13 of its
18 publicly filed Motion for Leave to File Third Amended Complaint shall remain redacted.

19 IT IS FURTHER ORDERED that Exhibit 57 to Plaintiffs' Motion for leave to File Third
20 Amended Complaint shall remain sealed until further order of the Court.

21 IT IS FURTHER ORDERED that Plaintiffs and Defendants shall file a joint status report
22 regarding Exhibit 57 and whether this document should remain sealed within ten (10) days of the
23 date of this Order.

24 DATED this 24th day of June, 2021.

25
26 
27 ELAYNA J. YOUCHAK
28 UNITED STATES MAGISTRATE JUDGE