

## 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,

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 Defendants' Motion for Leave to Redact Defendants' Opposition to  
18 Plaintiffs' Motion for Sanctions Pursuant to Fed. R. Civ. P. 30(d)(2) and 37(d) and File Under Seal  
19 Certain Exhibits. ECF No. 525. No response to this Motion was filed.

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

28 The mere fact that the production of records may lead to a party's embarrassment,  
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

1 improper purposes, including use of records to gratify private spite, promote public scandal,  
2 disseminate libelous statements, or circulate trade secrets. *Nixon v. Warner Commc'ns*, 435 U.S.  
3 589, 598 (1978).

4 The Court has reviewed the redactions to Defendants' Opposition and the documents sought  
5 to be sealed. The Court finds Exhibits A, B, C, and D are properly sealed. The Court further finds  
6 the redactions to Defendants' Opposition to Plaintiffs' Motion for Sanctions are warranted.

7 Accordingly, IT IS HEREBY ORDERED that Defendants' Motion for Leave to Redact  
8 Defendants' Opposition to Plaintiffs' Motion for Sanctions Pursuant to Fed. R. Civ. P. 30(d)(2) and  
9 37(d) and File Under Seal Certain Exhibits, ECF No. 525, is GRANTED.

10 IT IS FURTHER ORDERED that Exhibits A, B, C, and D are properly, and shall remain,  
11 sealed.

12 IT IS FURTHER ORDERED that Defendants' Opposition to Plaintiffs' Motion for  
13 Sanctions is properly, and shall remain, redacted.

14 Dated this 21st day of October, 2021

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17 ELAYNA J. YOUCHAK  
18 UNITED STATES MAGISTRATE JUDGE  
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