

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 Pending before the Court is Defendants' Motion for Leave to Redact Defendants' Motion for
18 Sanctions ... and File Under Seal Certain Exhibits (ECF No. 597). The Court reviewed the
19 documents presently filed under seal and found there are over 2,000 pages. The Court cannot expend
20 its limited judicial resources to review each of these pages. Moreover, as the parties know, the
21 marking of a document as confidential or highly confidential does not, in and of itself, render a
22 document properly sealed. *Heath v. Tristar Products, Inc.*, Case No. 2:17-cv-02869-GMN-PAL,
23 2019 WL 12311995, at *1 (D. Nev. Apr. 17, 2019) citing *Foltz v. State Farm Mut. Auto. Ins. Co.*,
331 F.3d 1122, 1133 (9th Cir. 2003); *Beckman Indus., Inc. v. Int'l Ins. Co.*, 966 F.2d 470, 475-76
(9th Cir. 1992). The burden for sealing documents is higher than the burden on an individual party
when determining what to mark as confidential.

24 Accordingly, IT IS HEREBY ORDERED that Defendants' Motion for Leave to Redact
25 Defendants' Motion for Sanctions ... and File Under Seal Certain Exhibits (ECF No. 597) is
26 DENIED without prejudice.

27 IT IS FURTHER ORDERED that on or before **September 9, 2022**, the parties must meet
28 and confer to determine which documents filed in support of Defendants' Motion for Sanctions are

1 properly sealed. This includes determining which pages of deposition transcripts must be sealed as
2 it is unlikely that the entirety of any deposition in a civil case must be sealed. Plaintiffs, who marked
3 the documents confidential and highly confidential, must review the documents in preparation for
4 the meeting to advise which pages filed under seal can be filed on the public docket.

5 IT IS FURTHER ORDERED that after the parties meet and confer, Defendants shall refile
6 on the public docket the exhibits to the Motion for Sanctions the parties agree are properly unsealed,
7 refile the remaining documents under seal, refile the Motion to Seal, and refile the Motion for
8 Sanctions with revised redactions, if any; provided, however, if no changes to the Motion for
9 Sanctions are needed, the Motion need not be refiled.

10 IT IS FURTHER ORDERED that the revised filings are due **September 16, 2022**.

11 IT IS FURTHER ORDERED that the Motion for Sanctions (ECF No. 596) and the exhibits
12 thereto shall remain sealed until such time as the Court receives a revised set of sealed exhibits,
13 unsealed exhibits, and, if necessary, a revised redacted Motion.

14 IT IS FURTHER ORDERED that because Plaintiffs are in receipt of all documents filed
15 under seal, the due date for the response to the Motion for Sanctions is **not** advanced. Plaintiffs are
16 advised to carefully consider what is filed under seal in support of their response. An exhibit
17 attached to Defendants' Motion need not be refiled as an exhibit to Plaintiffs' response.

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19 DATED this 31st day of August, 2022.

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22 ELAYNA J. YOUCHAK
23 UNITED STATES MAGISTRATE JUDGE
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