

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

CUNG LE, et al.,

Plaintiffs,

v.

ZUFFA, LLC, d/b/a UFC Ultimate Fighting
Championship,

Defendant.

Lead Case No. 2:15-cv-01045-RFB-PAL¹

ORDER

(Mots. Seal – ECF Nos. 250, 257)

This matter is before the court on the parties’ Motions to Seal (ECF Nos. 250, 257). These Motions are referred to the undersigned pursuant to 28 U.S.C. § 636(b)(1)(A) and LR IB 1-3 of the Local Rules of Practice. The Motions ask the court to seal certain portions of their briefing on the Motion to Challenge Privilege Designation (ECF Nos. 250-1, 251) and the related exhibits.

This is an antitrust action and the court has entered a Stipulated Protective Order (ECF No. 217) governing documentation and testimony that is confidential to the parties’ internal business strategies and other sensitive information of a proprietary business nature. The subject documents contain confidential information regarding Defendant Zuffa, LLC’s internal finances, financial terms and incentives of contractual negotiations, and business strategies and analysis and were filed under seal because Zuffa’s counsel designated the documents as “confidential” pursuant to the parties’ Stipulated Protective Order. The parties have narrowly tailored their sealing requests by filing redacted versions of the documents containing confidential information. *See* (ECF Nos. 251, 256). Having reviewed and considered the matter in

¹ Member Case Nos.: 2:15-cv-01046-RCJ-NJK; 2:15-cv-01055-APG-GWF; 2:15-cv-01056-RFB-GWF; and 2:15-cv-01057-JCM-CWH.

1 accordance with the Ninth Circuit’s directives set forth in *Kamakana v. City and County of*
2 *Honolulu*, 447 F.3d 1172 (9th Cir. 2006), the court finds that the parties have met their burden of
3 establishing good cause for these documents to remain sealed.

4 The court notes, however, that Plaintiffs’ Motion to Lodge Materials Under Seal (ECF
5 No. 250) was erroneously filed under seal when *the motion itself* does not contain any
6 confidential information—only the attached exhibits present confidential information. If a
7 motion to seal itself contains confidential information, the moving party may file a *redacted*
8 motion to seal on the public docket and an *unredacted* motion under seal. However, this practice
9 is disfavored as litigants should attempt to meet their burden under *Kamakana* without specific
10 references to confidential information. Thus, Plaintiffs’ Motion will be unsealed.

11 Additionally, sealed and unsealed materials must not be combined in one filing. For
12 example, a motion to seal containing no confidential information, which should be filed on the
13 public docket, must not be combined with an unredacted exhibit or motion for which sealing is
14 requested. *See* Order (ECF No. 252) at 3:3–13. Any confidential materials must be filed
15 separately in CM/ECF *under seal* as “Sealed Exhibit(s)” and linked to a motion to seal. *Id.* The
16 court’s review of any motion requesting leave to file under seal will be complicated by the
17 parties’ failure to properly submit their filings through CM/ECF. Counsel are responsible for
18 instructing their staff regarding the correct procedures for filing under seal. For additional
19 direction, counsel should review the May 12, 2016 Order (ECF No. 252) addressing sealed
20 filings or refer to the updated procedures in *CM/ECF Version 4.0 Enhancements and Changes*,
21 which is available on the court’s website. The parties are also encouraged to contact the
22 CM/ECF Helpdesk at (702) 464-5555 prior to filing should they have any technical questions.

23 Accordingly,

24 ///

25 ///

26 ///

27 ///


28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IT IS ORDERED:

1. The Clerk of the Court shall UNSEAL Plaintiffs’ Motion to Lodge Materials Under Seal (ECF No. 250), but not the attached exhibits.
2. Plaintiffs’ Motion to Lodge Materials Under Seal (ECF No. 250) and Defendant Zuffa, LLC’s Motion to Seal (ECF No. 257) are GRANTED.

Dated this 14th day of September, 2016.



PEGGY A. LEEN
UNITED STATES MAGISTRATE JUDGE