UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

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JAMES ELVIS EMERSON and SYLVIA EMERSON, Plaintiffs, v. ARCTIC CAT SPORT, INC., et al., Defendants.	Case No. 2:16-cv-01229-MMD-PAL **ORDER**

This matter is before the court on the Memorandum of Points and Authorities (ECF No. 31) filed by Defendants TMBC, LLC, Reiner R. Hall, and Lauren Pastor (jointly, the "TMBC Defendants") in response to the court's August 26, 2016 Order (ECF No. 29). The court instructed the parties to file a memorandum of points and authorities and any supporting declaration or affidavit to make a particularized showing as to why a contract should remain under seal. The dealer agreement between Defendants TMBC, LLC, and Arctic Cat, Inc. is attached to the TMBC Defendants' Motion for Leave to Amend their Answer to Assert a Third-Party Claim Against Arctic Cat Sales, Inc. (ECF No. 18) as Exhibit B.

The TMBC Defendants assert that the dealer agreement contains confidential and proprietary commercial information that, if publically disclosed, would enable their competitors to use such information to gain an unfair commercial advantage. The TMBC Defendants further argue that public disclosure of the dealer agreement would give third-parties an unfair opportunity to interfere with the current business relationship between TMBC and Arctic Cat. Having reviewed and considered the matter in accordance with the Ninth Circuit's directives set forth in *Kamakana v. City and County of Honolulu*, 447 F.3d 1172 (9th Cir. 2006), and its progeny, the court finds that the TMBC Defendants have met their burden of establishing good

cause for the dealer agreement to be sealed. However, because the TMBC Defendants did not properly file the exhibits to the Motion for Leave to Amend Answer (ECF No. 18), the court cannot direct the docketing clerks to simply seal the dealer agreement and leave the remainder of the filing unsealed. The court will therefore instruct the Clerk of the Court to seal the entirety of the Motion for Leave to Amend Answer (ECF No. 18) and the TMBC Defendants shall refile a redacted version of their Motion omitting the sealed exhibit. All future filings, including the redacted motion, must comply with the Local Rules of Practice and the correct CM/ECF filing procedures. *See* Order (ECF No. 29).

Accordingly,

IT IS ORDERED:

1. The Clerk of the Court shall SEAL the TMBC Defendants' Motion for Leave to Amend Answer (ECF No. 18).
2. **By September 30, 2016**, the TMBC Defendants shall REFILE a redacted version of their Motion omitting the sealed exhibit and LINK the new filing in CM/ECF to their original Motion for Leave to Amend Answer (ECF No. 18).
3. All future filings, including the redacted motion, must comply with the Local Rules of Practice and the correct CM/ECF filing procedures.

Dated this 23rd day of September, 2016.

PEGGY A. LEEN
UNITED STATES MAGISTRATE JUDGE