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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

SETH MANHEIMER,
Plaintiff(s),
v.
TRANSFUSION YOGA, LLC, et al.,
Defendant(s).

Case No.: 2:16-cv-02186-JCM-NJK

Order
[Docket No. 88]

Pending before the Court is Plaintiff’s motion to seal roughly 1480 pages of filings, including the motion to seal itself, the declaration in support thereof, and approximately 1470 pages of trial exhibits. Docket No. 88. The motion to seal relates to a pending motion in limine to exclude trial evidence. Docket No. 87. No response was filed to the motion to seal. The motion to seal has been referred to the undersigned.¹ The Clerk’s Office is **INSTRUCTED** to maintain the subject materials under seal for the time-being, but all of the subject documents will be unsealed absent the filing of a supplement addressing the concerns identified below. That supplement shall be filed by **July 31, 2018**.

The instant motion to seal suffers from numerous deficiencies. First, and most basically, the motion relies on the “good cause” standard without any explanation why that standard should govern here. See Docket No. 88 at 2. The Ninth Circuit has explained that the more rigorous

¹ The undersigned expresses no opinion herein as to the merits of the motion in limine.

1 “compelling reasons” standard applies to requests to seal materials filed in conjunction with
2 motions that are more than tangentially related to the merits of the case. *Center for Auto Safety v.*
3 *Chrysler Group, LLC*, 809 F.3d 1092, 1101 (9th Cir. 2016), cert. denied, 137 S.Ct. 38 (2016). The
4 Ninth Circuit has further indicated that “plenty of technically nondispositive motions—**including**
5 **routine motions in limine**—are strongly correlative to the merits of the case.” *Id.* at 1099
6 (emphasis added). Accordingly, Plaintiff must explain why he relies on the good cause standard
7 rather than the compelling reasons standard in his motion to seal.

8 Second, the motion to seal was itself filed under seal. A motion to seal should not generally
9 be filed under seal. E.g., *Old Republic Ins. Co. v. City Plan Dev., Inc.*, 2017 WL 5076515, at *2
10 (D. Nev. Nov. 2, 2017); *In re Western States Wholesale Nat’l Gas Antitrust Litig.*, 2016 WL
11 4944086, at *1 n.1 (D. Nev. Sept. 14, 2016). No explanation has been provided as to why the
12 motion itself should be sealed.

13 Third, the motion seeks to seal 1468 pages of exhibits. See Docket Nos. 88-3, 88-4, 88-5,
14 88-6, 88-7, and 88-8. A request to seal documents must be “narrowly tailored” to remove from
15 the public sphere only the material that warrants secrecy. E.g., *Ervine v. Warden*, 214 F. Supp. 3d
16 917, 919 (E.D. Cal. 2016) (citing *Press-Enterprise Co. v. Superior Court of Cal.*, 464 U.S. 501
17 (1986)). As a corollary, to the extent any confidential information can be easily redacted while
18 leaving meaningful information available to the public, the Court must order that redacted versions
19 be filed rather than sealing entire documents. *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d
20 1122, 1137 (9th Cir. 20013); see also *In re Roman Catholic Archbishop of Portland in Oregon*,
21 661 F.3d 417, 425 (9th Cir. 2011) (the district court must “keep in mind the possibility of redacting
22 the sensitive material”). In support of his massive sealing request, Plaintiff provides examples of
23 specific text messages for which he contends secrecy is warranted. See Docket No. 88-2 at ¶¶ 3-
24 7. No showing has been made as to why redaction, rather than outright sealing, is not feasible.

25 Given these deficiencies, Plaintiff shall file a supplement by July 31, 2018. That
26 supplement shall provide a discussion as to why the “compelling reasons” standard should not
27 apply to this motion. The supplement shall also explain why redaction is not feasible, to the extent
28 the Court finds that any information warrants secrecy. The supplement shall also identify each

1 and every specific instance of purportedly sealable material and, for each instance, shall provide
2 meaningfully developed argument for the basis of that request.² To the extent Defendants wish to
3 do so, they may also file a statement addressing the issues raised herein by July 31, 2018.

4 IT IS SO ORDERED.

5 Dated: July 26, 2018

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8 Nancy J. Koppe
9 United States Magistrate Judge
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25 ² As noted above, sealing requests should be narrowly tailored and should be limited to
26 protecting truly sensitive information. The Court does not express any opinion herein as to whether
27 any aspect of the exhibits warrant secrecy from the public through redaction or otherwise. The
28 Court notes, however, that while the third-party information identified raises some concern, the
vast majority of the examples provided appear to fall far short of warranting secrecy. Compare
Docket No. 88-2 at ¶¶ 3-7 with *Kamakana v. City & County of Honolulu*, 447 F.3d 1172, 1179
(9th Cir.2006) (“The mere fact that the production of records may lead to a litigant’s
embarrassment, incrimination, or exposure to further litigation will not, without more, compel the
court to seal its records” (emphasis added)).