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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 BEHROUZ SHOKRI,

9 Plaintiff,

10 v.

11 THE BOEING COMPANY, a Delaware
12 corporation,

13 Defendant.

Case No. C16-1132 RSM

ORDER GRANTING IN PART AND
DENYING IN PART PLAINTIFF'S
MOTION TO SEAL

14 This matter comes before the Court on Plaintiff's Motion to Seal. Dkt. #106. Plaintiff
15 seeks to file Exhibits CC-KK, NNN, and OOO to the Declaration of Scott C.G. Blankenship in
16 Support of Plaintiff's Opposition to Defendant's Motion for Summary Judgment under seal. *Id.*
17 These documents were marked "Confidential" by Defendant under the parties' Protective Order.
18 *Id.* ¶¶ 1–2. Defendant, as the designating party, must justify sealing the documents. Local Rule
19 CR 5(g)(3).
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21 "There is a strong presumption of public access to the court's files." Local Rule CR 5(g).
22 The Court will not grant broad authority to file documents under seal simply because the parties
23 have designated them as confidential in the course of discovery. *Kamakana v. City & Cnty. of*
24 *Honolulu*, 447 F.3d 1172, 1183 (9th Cir. 2006). "If possible, a party should protect sensitive
25 information by redacting documents rather than seeking to file them under seal." CR 5(g)(3).
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1 For dispositive motions, a party seeking to maintain the secrecy of documents must meet
2 the high threshold of showing that “compelling reasons” support secrecy. *Kamakana*, 447 F.3d
3 at 1180. “In general, ‘compelling reasons’ sufficient to outweigh the public’s interest in
4 disclosure and justify sealing court records exist when such ‘court files might have become a
5 vehicle for improper purposes,’ such as the use of records to gratify private spite, promote public
6 scandal, circulate libelous statements, or release trade secrets.” *Id.* at 1179 (quoting *Nixon v.*
7 *Warner Communications, Inc.*, 435 U.S. 589, 598 (1978)). “[C]ourts have recognized the
8 significant interest of non-party employees in keeping their employment files . . . secret.” *Aevoe*
9 *Corp. v. AE Tech. Co.*, No. 2:12-cv-00053-GMN-NJK, 2013 WL 5923426, *2 (D. Nev. Nov. 1,
10 2013) (citing *Triquint Semiconductor, Inc. v. Avago Techs., Ltd.*, No. CV 09-1531-PHX-JAT,
11 2011 WL 4947343, *3, 5 (D. Ariz. Oct. 18, 2011)).

13 The Court, having reviewed the motion, Defendant’s response, and the remainder of the
14 record, now finds compelling reasons to GRANT the motion IN PART as follows.

16 Exhibit CC (Dkt. #111), attached to the Declaration of Scott C.G. Blankenship in Support
17 of Plaintiff’s Opposition to Defendant’s Motion for Summary Judgment, is a personal resume
18 containing private work history details of a non-party to this litigation. The Court finds that the
19 document, possessed by an employer, is an employment file, that redaction is not feasible due to
20 the nature of the document, and that a compelling reason exists to seal the document.

21 Exhibits EE (Dkt. #113), FF (Dkt. #114), GG (Dkt. #115), HH (Dkt. #116), NNN
22 (Dkt. #120), and OOO (Dkt. #121), attached to the Declaration of Scott C.G. Blankenship in
23 Support of Plaintiff’s Opposition to Defendant’s Motion for Summary Judgment, contain
24 performance evaluations for non-parties to this litigation. Exhibits EE, FF, GG, and HH also
25 contain private information for non-parties to this litigation. The Court finds that the documents
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1 are employment files, that redaction is not feasible due to the nature of the documents, and that
2 a compelling reason exists to seal the documents.

3 Exhibit DD (Dkt. #112), attached to the Declaration of Scott C.G. Blankenship in Support
4 of Plaintiff's Opposition to Defendant's Motion for Summary Judgment, appears to be an
5 unsolicited critique of a non-party arising from the sender's interaction with the non-party in a
6 business setting. An unsolicited comment by a third party, not sent to the employer in the course
7 of a performance evaluation, is not equivalent to information that employees are required to
8 submit to their employers in the course of seeking employment or being employed or to personal
9 information contained in performance evaluations. The Court finds that the document is not
10 properly characterized as a part of the employment file and does not find a compelling reason to
11 seal the document. Further, the Court notes that the pertinent passages are included in Plaintiff's
12 Opposition to Defendant's Motion for Summary Judgment and that Plaintiff's Opposition was
13 not filed under seal and is not subject to a pending motion to seal. *See* Dkt. #105 at 4, 7, and 22.
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16 Exhibit II (Dkt. #117), JJ (Dkt. #118), and KK (Dkt. #119), attached to the Declaration
17 of Scott C.G. Blankenship in Support of Plaintiff's Opposition to Defendant's Motion for
18 Summary Judgment, contain evaluations and ratings of non-parties to this litigation. The Court
19 finds that the documents are employment files and that a compelling reason exists to protect non-
20 party employees' privacy. Defendant—the party that designated the exhibits as “Confidential”—
21 has indicated that it believes redaction of non-party employee identifying information is
22 sufficient to protect its non-party employees and communicated this fact to Plaintiff. Dkt. 126
23 at 4. The Court agrees, believes that filing with redactions will best protect the public's interest
24 in judicial records while protecting non-parties' privacy, and does not find a compelling reason
25 to file Exhibits II, JJ, and KK under seal.
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1 Accordingly, the Court hereby ORDERS:

2 1. Plaintiff's Motion to Seal (Dkt. #106) is GRANTED IN PART and DENIED IN
3 PART.

4 2. Exhibits CC, EE, FF, GG, HH, NNN, and OOO to the Declaration of Scott C.G.
5 Blankenship in Support of Plaintiff's Opposition to Defendant's Motion for Summary Judgment
6 (Dkts. #111, #113, #114, #115, #116, #120, and #121) shall REMAIN UNDER SEAL.

7 3. Exhibit DD to the Declaration of Scott C.G. Blankenship in Support of Plaintiff's
8 Opposition to Defendant's Motion for Summary Judgment (Dkt. #112) shall be immediately
9 UNSEALED BY THE CLERK.

10 4. No later than seven (7) days from the date of this Order, Plaintiff shall file redacted
11 versions of Exhibits II, JJ, and KK to the Declaration of Scott C.G. Blankenship in Support of
12 Plaintiff's Opposition to Defendant's Motion for Summary Judgment (Dkts. #117, #118, and
13 #119), which do not contain the identifying information of non-parties (names, BEMS, and ages).
14 If Plaintiff needs to cross reference individuals, Plaintiff may anonymize the documents using
15 generic monikers as Defendants have, *see* Dkts. #97-8, #98-2, and shall utilize the same generic
16 monikers as Defendant.

17 5. Exhibits II, JJ, and KK to the Declaration of Scott C.G. Blankenship in Support
18 of Plaintiff's Opposition to Defendant's Motion for Summary Judgment, filed under seal at Dkts.
19 #117, #118, and #119, shall REMAIN UNDER SEAL.

20 Dated this 14th day of February 2018.

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25 RICARDO S. MARTINEZ
26 CHIEF UNITED STATES DISTRICT JUDGE

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