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7 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

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9 ANIMAL LEGAL DEFENSE FUND,

10 Plaintiff,

11 v.

12 OLYMPIC GAME FARM, INC., *et al.*,

13 Defendants.

Case No. C18-6025RSL

ORDER REGARDING MOTION TO SEAL
(Dkt. # 157)

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15 This matter comes before the Court on “Plaintiff’s Motion on Documents Filed Under
16 Seal.” Dkt. # 157. Pursuant to LCR 5(g), plaintiff seeks to seal records designated as confidential
17 by defendant Olympic Game Farm (“OGF”) and/or third-party Sequim Animal Hospital
18 (“SAH”).¹ With the exception of OGF’s profit and loss statement, Dkt. # 161-1, plaintiff does
19 not believe that any of the other documents should remain under seal. The parties were unable to
20 reach agreement regarding the seal issues.

21 “There is a strong presumption of public access to the court’s files. LCR 5(g). A party’s
22 unilateral designation of a document as confidential under a protective order does not, in and of
23

24 _____
25 ¹ The documents at issue are Dkt. # 159 (Declaration of Dr. Lisa Harrenstien, including photos of
26 OGF’s operation); Dkt. # 160 (portions of the Motion for Summary Judgment describing the conditions
27 at OGF); Dkt. # 160-1 (deposition transcript of OGF’s former employee, Julie Carrizosa); and Dkt.
28 # 161 (certain exhibits to the Declaration of Daniel Waltz, including OGF financial records and
veterinary records).

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1 itself, justify a seal under LCR 5(g)(2). Where a document has been offered in support of or
2 opposition to a dispositive motion, the party requesting that the record be sealed

3 must articulate compelling reasons supported by specific factual findings that
4 outweigh the general history of access and the public policies favoring disclosure,
5 such as the public interest in understanding the judicial process. In turn, the court
6 must conscientiously balance the competing interests of the public and the party
7 who seeks to keep certain judicial records secret. After considering these interests,
8 if the court decides to seal certain judicial records, it must base its decision on a
9 compelling reason and articulate the factual basis for its ruling, without relying on
10 hypothesis or conjecture.

11 In general, “compelling reasons” sufficient to outweigh the public’s interest in
12 disclosure and justify sealing court records exist when such court files might have
13 become a vehicle for improper purposes, such as the use of records to gratify
14 private spite, promote public scandal, circulate libelous statements, or release trade
15 secrets. The mere fact that the production of records may lead to a litigant’s
16 embarrassment, incrimination, or exposure to further litigation will not, without
17 more, compel the court to seal its records.

18 *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1178-79 (9th Cir. 2006) (internal
19 citations, quotation marks, and alterations omitted).

20 OGF has not satisfied its burden, having failed to provide the Court with anything other
21 than its fear that production of the deposition transcript, veterinary records, or photographs will
22 embarrass them or benefit plaintiff in its pursuit of this litigation. The actual conditions at OGF
23 are the critical issue in this lawsuit, and the public’s understanding of the Court’s dispositive
24 rulings will turn on their awareness of those conditions. The Court is not bound by a non-
25 disclosure agreement signed decades ago, nor have defendants’ shown that Ms. Carrizosa’s
26 testimony is irrelevant. With regards to the veterinary records, the fact that veterinarians treat
27 their records as confidential does not shield them from discovery or public disclosure. There is
28 no veterinarian privilege, no animal equivalent of the Health Insurance Portability and
Accountability Act, and no case law suggesting that humans and animals are entitled to the same
level of privacy. Defendants’ objection to the public disclosure of photographs taken by plaintiff

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1 during a site visit are, for the most part, too vague and speculative to justify the public's
2 exclusion. In fact, OGF asserts that it "is not concerned that the public will see the images"
3 Dkt. # 171 at 5. Instead, OGF suggests that unidentified third parties who are somehow affiliated
4 with plaintiff will use the photos for commercial purposes, namely to solicit funds with which to
5 pursue this litigation. OGF does not, however, explain how such a use would be improper.
6 Plaintiff, seemingly in good faith, believes that OGF is harming the endangered species in its
7 care. If the photographs support that narrative and are not used "to gratify private spite, promote
8 public scandal, circulate libelous statements, or release trade secrets," *Kamakana*, 447 F.3d at
9 1179 (citation omitted), the balance of interests favors public access.

10 Finally, OGF relies heavily on the Honorable Ronald B. Leighton's July 31, 2020, order
11 denying plaintiff's motion to lift the confidentiality designation on the veterinary records and the
12 photographs. Dkt. # 111. At the time, there were no dispositive motions pending: in fact, there
13 were no motions pending at all. Judge Leighton's order was therefore based on a different
14 analysis and did not set forth compelling reasons or the factual basis for its ruling as is required
15 here. *See Kamakana*, 447 F.3d at 1179 (citation and quotation marks omitted).

16
17 OGF has not made the showing necessary to preclude public access to the deposition
18 transcript, veterinarian records, or photographs at issue. Plaintiff's motion to seal (Dkt. # 157) is
19 GRANTED in part and DENIED in part. The Clerk of Court is directed to unseal Dkt. # 159,
20 Dkt. # 160, Dkt. # 160-1, and Dkt. # 161 EXCEPT for Dkt. # 161-1.

21
22 Dated this 7th day of January, 2022.

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24 Robert S. Lasnik
25 United States District Judge
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