

JUDGE ORRICK'S STANDING ORDER ON
ADMINISTRATIVE MOTIONS TO FILE UNDER SEAL

Any party seeking to file material under seal must comply with this Order and Civil Local Rule 79-5. The party that has designated material as confidential also must file a declaration in support of sealing that rebuts the strong presumption in favor of public access that applies to all documents other than grand jury transcripts and pre-indictment warrant materials. *See Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006).

A. Administrative Motions to File Under Seal

Administrative motions to file materials under seal must contain the following information, presented in the following sequence:

1. A statement certifying that the filing party has reviewed and complied with this Order.
2. A statement certifying that the filing party has reviewed and complied with Civil Local Rule 79-5.
3. An identification of each document, documents, or portions of documents proposed to be sealed or redacted.
4. A statement identifying the entity that has designated the materials to be sealed as confidential. If a party seeks to seal numerous documents, the party shall provide a chart identifying the entity that designated each document as confidential.
5. A statement identifying the basis for sealing each document or portion of a document. If a party seeks to seal numerous documents, the party shall provide a chart identifying the basis for sealing each document or portion of a document. If the portions of documents sought to be sealed are voluminous, the Court will consider a single statement covering multiple documents if the basis for sealing those materials is the same.
6. All other materials required by the Local Rule, including courtesy copies in the correct format. *See CIVIL L.R. 79-5(d)*.

B. Justification for Filing Under Seal

The following requirements apply to the Administrative Motion and/or declaration filed by the entity that has designated the material as confidential.

The party seeking to seal the material must establish that the following requirements are met:

1. The document or document portion sought to be sealed is “privileged, protectable as a trade secret or otherwise entitled to protection under the law.” CIVIL L.R. 79-5(b). Supporting declarations must “articulate [] reasons supported by specific factual findings” to warrant sealing. *Kamakana*, 447 F.3d at 1178. Note that “[r]eference to a stipulation or protective order that allows a party to designate certain documents as confidential is not sufficient to establish that a document, or portions thereof, are sealable.” CIVIL L.R. 79-5(d)(1)(A). Conclusory assertions of harm are also insufficient.
2. The “strong presumption of access to judicial records” is rebutted under the appropriate legal standard, i.e., the “good cause” or “compelling reasons” standard. The standard that

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applies depends on whether the underlying motion at issue “is more than tangentially related to the merits of a case.” *Ctr. for Auto Safety v. Chrysler Group, LLC*, 809 F.3d 1092, 1101 (9th Cir. 2016). The Administrative Motion or declaration must identify the appropriate standard and articulate why the materials to be sealed satisfy that standard. “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.” *Kamakana*, 447 F.3d at 1179.

3. The request is “narrowly tailored to seek sealing only of sealable material” and does not indiscriminately seek to seal documents or portions of documents which do not contain sealable material. CIVIL L.R. 79-5(b).

C. Proposed Orders and Service

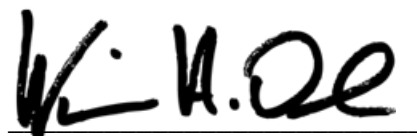
1. Proposed Orders must identify with specificity each document, documents, or portions of documents proposed to be sealed or redacted in compliance with Civil Local Rule 79-5(d)(1)(B). If a party seeks to seal numerous documents, the Proposed Order should include a chart identifying each document or portion of a document sought to be sealed and the justification for each proposed sealing.
2. Electronic copies of proposed orders must be sent in Word format to whopo@cand.uscourts.gov.
3. The filing party must serve the above items, this Order, and a copy of Civil Local Rule 79-5 upon (i) any party who is not on ECF, and (ii) any non-party that has designated as confidential any material to be sealed. The filing party must then file a certificate of service to confirm that it has complied.

D. E-filing

1. For instructions on how to e-file the Administrative Motion to File Under Seal, see the directions on the Court’s homepage at <http://cand.uscourts.gov/ecf/underseal>.
2. If the document sought to be filed under seal is a motion (for example, a motion to dismiss, a motion for summary judgment), counsel shall e-file, separately from the contents and attachments of the Administrative Motion to File Under Seal discussed above, a redacted version of the Motion. That separate filing will allow counsel to select a hearing date for the substantive Motion.

FAILURE TO COMPLY WITH THIS STANDING ORDER AND THE LOCAL RULES MAY RESULT IN SUMMARY DENIAL OF ADMINISTRATIVE MOTIONS TO FILE UNDER SEAL.

Dated: March 23, 2018



William H. Orrick
United States District Judge