

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Smahi v. STMicroelectronics, Inc.

No. 23-cv-06645-PCP (N.D. Cal. Mar. 31, 2025) · No. 23-cv-06645-PCP · Decided March 31, 2025

SUMMARY

The United States District Court for the Northern District of California denied STMicroelectronics, Inc.’s motion for case-terminating sanctions against plaintiff Rachid Smahi without prejudice, finding material factual disputes concerning preservation duties, data loss, and intent under Federal Rule of Civil Procedure 37(e). The court granted ST’s motion to strike separately filed evidentiary objections. The court also granted sealing requests in part and ordered the parties to publicly file documents with only permitted redactions.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	P. Casey Pitts
JURISDICTION	United States District Court for the Northern District of California
DECIDED	March 31, 2025
DOCKET	23-cv-06645-PCP
DISPOSITION	other
PROCEDURAL POSTURE	Defendant and counterclaimant STMicroelectronics, Inc. moved for case-terminating sanctions based on alleged spoliation of electronically stored information, and separately moved to strike evidentiary objections and to seal portions of motion papers. The district court denied the sanctions motion without prejudice, granted the motion to strike, and granted the sealing motions in part.
STANDARD OF REVIEW	The court applied a preponderance-of-the-evidence standard to determine whether spoliation sanctions were warranted under Federal Rule of Civil Procedure 37(e). For sealing, the court applied the strong presumption of public access and the compelling-reasons standard for sealing judicial records. The court exercised discretion in considering supplemental evidence supporting the sanctions motion.
PRECEDENTIAL VALUE	unpublished district court order; persuasive authority only

TOPICS

sanctions

discovery dispute

civil procedure

trade secrets

PRACTICE AREAS

civil procedure

employment law

trade secret litigation

evidence

QUESTIONS PRESENTED

1. Whether ST had shown by a preponderance of the evidence that Smahi failed to take reasonable steps to preserve electronically stored information that should have been preserved in anticipation of litigation and could not be restored or replaced through additional discovery.
2. Whether the existing factual record established the intent required under Federal Rule of Civil Procedure 37(e)(2) for terminating sanctions or adverse inferences.
3. Whether the requested documents and materials should be sealed under the applicable presumption of public access and compelling-reasons standard.
4. Whether Smahi's separately filed evidentiary objections should be stricken for failure to comply with Civil Local Rule 7-3(a).

HOLDINGS

1. The court could not determine by a preponderance of the evidence that sanctions were warranted because material factual conflicts existed concerning Smahi's preservation duty, the reason the information was lost, and his intent. The motion for sanctions was therefore denied without prejudice to renewal after further factual development.
2. The court could not impose terminating sanctions on the current record because it could not determine whether Smahi possessed the requisite intent to deprive ST of the lost information's use in the litigation.
3. The court granted ST's sealing requests at Docket Nos. 53 and 65, granted in part and denied in part the request at Docket No. 61, and granted ST's motion to strike Smahi's separately filed evidentiary objections for failure to comply with Civil Local Rule 7-3(a).

KEY QUOTATIONS

"A party engages in sanctionable misconduct triggering Rule 37(e) when it (1) "fail[s] to take reasonable steps to preserve" electronically stored information that (2) "should have been preserved in anticipation or conduct of litigation," and (3) when such information "cannot be restored or replaced through additional discovery."" (at 3)

"Based on the factual record before it, the Court is unable to conclude by a preponderance of the evidence that sanctions are warranted." (at 4)

"The public has a longstanding and well-recognized "right to inspect and copy public records and documents, including judicial records and documents."" (at 5)

“To overcome this strong presumption, a party who wishes to seal a court record must generally “articulate compelling reasons supported by specific factual findings ... that outweigh the general history of access and the public policies favoring disclosure.”” (at 5)

FACTUAL BACKGROUND

Smahi was employed by ST from October 2021 until late June 2023 and brought claims alleging retaliation, disability discrimination, failure to accommodate, harassment, assault and battery, and unpaid wages. ST later asserted counterclaims concerning alleged trade-secret violations after Smahi produced documents related to ST projects. ST alleged that Smahi wiped or deleted data from devices and accounts and destroyed a USB drive, while Smahi disputed the characterization of those events and asserted that some deletions occurred before he understood any preservation obligation or because he feared hacking.

PROCEDURAL HISTORY

Smahi filed an employment-discrimination action in Santa Clara County Superior Court on December 22, 2023. ST removed the action to the Northern District of California on December 28, 2023. After Smahi produced documents allegedly revealing internal ST materials, ST amended its answer to add trade-secret-related counterclaims and then sought forensic examination and sanctions based on alleged deletion or destruction of electronically stored information.

DISPOSITION

other

CASES CITED

- Gregory v. Montana, 118 F.4th 1069, 1080 (9th Cir. 2024)
- Morehead v. City of Oxnard, No. CV 2:21-cv-07689-SPG-ADXS, 2023 WL 8143973, at *4 (C.D. Cal. Oct. 4, 2023)
- Leon v. IDX Sys. Corp., 464 F.3d 951, 956, 959 (9th Cir. 2006)
- Fast v. GoDaddy.com LLC, 340 F.R.D. 326, 353 (D. Ariz. 2022)
- Nixon v. Warner Commc'ns, Inc., 435 U.S. 589, 597 (1978)
- Ctr. for Auto Safety v. Chrysler Grp., LLC, 809 F.3d 1092, 1096, 1096-99 (9th Cir. 2016)
- Kamakana v. City & Cnty. of Honolulu, 447 F.3d 1172, 1178-79 (9th Cir. 2006)
- PNY Techs., Inc. v. SanDisk Corp., 2014 WL 1677521, at *2 n.4 (N.D. Cal. Apr. 25, 2014)
- Hodges v. Hertz Corp., 351 F. Supp. 3d 1227, 1249 (N.D. Cal. 2018)
- Edgen Murray Corp. v. Vortex Marine Constr., Inc., 2018 WL 4203801, at *3 (N.D. Cal. June 27, 2018)

OPINION

Smahi v. STMicroelectronics, Inc.

PER CURIAM.

4 UNITED STATES DISTRICT COURT

5 NORTHERN DISTRICT OF CALIFORNIA

6 7 RACHID SMAHI, Case No. 23-cv-06645-PCP 8 Plaintiff,

ORDER DENYING DEFENDANT'S

9 v. MOTION FOR SANCTIONS,

GRANTING DEFENDANT'S MOTION

10 STMICROELECTRONICS, INC., et al., TO STRIKE, AND GRANTING IN

PART DEFENDANT'S SEALING

11 Defendants. MOTIONS 12 Re: Dkt. Nos. 53, 54, 61, 65, 67 13 14 Defendant and
counterclaimant STMicroelectronics, Inc. ("ST") moves for case 15 terminating sanctions against
plaintiff Rachid Smahi. For the reasons discussed herein, ST's 16 motion is denied without
prejudice. ST's related motion to strike and sealing motions are granted 17 in part.

18 BACKGROUND

19 Smahi was employed by ST from October 2021 until late June 2023. During that time, 20
Smahi alleges he was harassed and retaliated against at work for objecting to unlawful conduct 21
and faced discrimination due to his disability. He also alleges that he was physically assaulted and
22 verbally abused. Smahi filed this employment discrimination lawsuit against ST on December
22, 23 2023, in Santa Clara County Superior Court. ST removed it to this Court on December 28,
2023. 24 Smahi's operative second amended complaint contains 14 causes of action under state
and federal 25 law for retaliation, disability discrimination, failure to reasonably accommodate
disability, 26 harassment, assault and battery, and failure to pay all wages owed 27 On July 11,
2024, Smahi produced responsive documents that allegedly revealed to ST that 1 as internal ST
company documents regarding the same projects. On November 1, 2024, allegedly 2 because of
this discovery, ST amended its answer to add additional counterclaims related to the 3 alleged
trade secrets violations. See Dkt. No. 52. 4 I. ST's version of events 5 On August 16, 2024, ST
demanded that Smahi submit his devices and accounts for a 6 forensic examination "to evaluate
the scope of his improper retention of ST confidential and 7 proprietary documents, as well as
whether Plaintiff has transmitted such documents to other third 8 parties aside from counsel."
Smahi subsequently agreed to permit this examination, and it was 9 scheduled for and take place
on October 1–3, 2024. During the investigation, the forensic 10 investigators discovered that
Smahi had tampered with his data and devices. According to ST, the 11 investigation revealed
that: 12 • Smahi had restored his iPhone on September 30, 2024, erasing its information and 13
settings, and he may have deleted backup data prior to September 30, 2024; 14 • Smahi wiped his
computer on September 30, 2024, by resetting it to factory 15 settings, such that all prior data was
lost; 16 • Smahi deleted an undisclosed iCloud account associated with his Yahoo email 17 address
on September 24, 2024 (the same day that Smahi's counsel finally agreed 18 to the scope of
forensic examination); 19 • Smahi recovered a password on September 30, 2024, for an
undisclosed Gmail 20 account and then deleted the account; 21 • Smahi had another Hotmail email

account associated with his iPhone that was not 22 disclosed and, because it had not been previously disclosed, the investigators did 23 not have its password and could not review the account. 24 Lastly, the USB drive that Smahi had used to transmit the alleged trade secret documents 25 to his attorneys was “accidentally” dropped into a pool in July 2024. Smahi subsequently 26 1 As discussed below, Smahi has submitted a declaration that disputes many of these facts or their 27 characterizations. 1 hammered the USB stick to pieces and threw the pieces away. 2 II. Smahi’s version of events 3 Smahi acknowledges that he “realized that he needed to preserve and present evidence of 4 his unlawful treatment at ST” when he prepared the USB drive containing documents (the 5 “retained documents”) related to this litigation. He asserts that the USB drive accidentally fell into 6 the swimming pool and as a result was discarded by Smahi prior to any discussion of imaging 7 devices, and while Smahi was unaware of any obligation he may have had to retain the device. 8 Smahi likewise argues he had no duty to preserve the “iMac information” which he 9 contends was wiped in late June or July 2024 for Smahi to prepare his computer for sale and “had 10 nothing to do with this case and, at the time of deletion, ... contained none of the [retained 11 documents] or any information related to them.” 12 Smahi explains that ST’s counsel first reached out on August 8, 2024 to express concern 13 about the retained documents. He further alleges that ST told Smahi he need not wait “before 14 destroying the documents in his possession, custody, or control” on August 16, 2024, and that ST 15 expressly requested, on August 21, 2024, that he “delete any/all confidential/proprietary ST or 16 third-party documents in his custody, possession or control,” prompting several of Smahi’s email 17 deletions. Smahi further contends that on August 30, 2024, he agreed to the forensic examination 18 of his cell phone, his iMac, and his iCloud and email accounts because he understood its purpose 19 was to verify that he no longer had possession of the retained documents. Smahi says he had 20 “nothing to hide” because he had deleted the documents already. “He did not understand that ST’s 21 counsel and [forensic investigator] wanted to access all of his personal email accounts and those of 22 his family, since those accounts had no connection to this case or to ST in any way.” 23 Smahi contends that the late September deletions were in response to an alert he got that 24 someone had attempted to log into his account and that he worried he was being hacked.2 25 26 2 ST points out that, despite meet-and-confers with counsel about the issue, they did not hear this 27 explanation until Smahi filed his opposition to ST’s motion for sanctions. Further, ST submits proof that Smahi admitted to trying to log into his own account around that time, so the

1 LEGAL STANDARDS

2 Federal Rule of Civil Procedure 37(e) applies to discovery issues arise regarding spoliation 3 of electronically stored information, which is all that is at issue on ST’s motion. See *Gregory v. 4 Montana*, 118 F.4th 1069, 1080 (9th Cir. 2024).3 5 A party engages in sanctionable misconduct triggering Rule 37(e) when it (1) “fail[s] to 6 take reasonable steps to preserve” electronically stored information that (2) “should have been 7 preserved in anticipation or conduct of litigation,”

and (3) when such information “cannot be restored or replaced through additional discovery.” Fed. R. Civ. P. 37(e). Once a court is satisfied that a party has engaged in such misconduct, it conducts a two-tiered analysis to determine the appropriate sanction. The most severe sanctions—adverse inferences and terminating sanctions—are available only if the court finds “that the party acted with the intent to deprive another party of the [lost] information’s use in the litigation.” Fed. R. Civ. P. 37(e)(2). “[T]he intent required by Rule 37(e)(2) ‘is most naturally understood as involving the willful destruction of evidence with the purpose of avoiding its discovery by an adverse party.’” Gregory, 118 F.4th at 1080. Lesser sanctions are available if the court “find[s] prejudice to another party from loss of the information,” and those sanctions must be “no greater than necessary to cure the prejudice.” Fed. R. Civ. P. 37(e)(1). “The Ninth Circuit has not set forth a specific standard of proof, but district courts in this Circuit apply a preponderance of the evidence standard in making findings to determine whether to impose spoliation sanctions under Rule 37(e).” *Morehead v. City of Oxnard*, No. CV 2:21-cv- 21 07689-SPG-ADXS, 2023 WL 8143973, at *4 (C.D. Cal. Oct. 4, 2023) (collecting cases).

22 ANALYSIS

23 I. ST’s request for sanctions is denied without prejudice. 24 ST seeks sanctions in the form of (1) a directed verdict on ST’s counterclaims, (2) judgment against Smahi on each of Smahi’s claims; (3) monetary sanctions. 26 27 3 At the hearing, ST acknowledged that Rule 37(e) “precludes [the] court from resorting to [its] 1 Based on the factual record before it, the Court is unable to conclude by a preponderance 2 of the evidence that sanctions are warranted.4 There are material conflicts of fact regarding 3 whether Smahi had any duty to preserve the electronically stored information given ST’s supposed 4 requests to Smahi to delete the retained documents and Smahi’s claimed belief that all of the 5 documents at issue with respect to ST’s counterclaim had already been provided to his attorneys 6 for production to ST’s counsel. There are also material conflicts of fact about whether the 7 electronically stored information was lost because Smahi failed to take reasonable steps to 8 preserve it in light of the hacking that Smahi purportedly experienced. Likewise, the Court is 9 unable to determine whether Smahi possessed the requisite intent required by Rule 37(e)(2) to 10 impose terminating sanctions because this requires a credibility determination that the Court is 11 unable to make on the record before it. In order for the Court to determine whether sanctions are 12 warranted, further factual development, such as a deposition of Smahi by ST, is necessary, and the 13 Court will likely require an evidentiary hearing including testimony from Smahi. See *Leon v. IDX 14 Sys. Corp.*, 464 F.3d 951, 956 (9th Cir. 2006) (noting that deposition of the purported spoiler and 15 an evidentiary hearing took place before the district court decided the motion). 16 Accordingly, the Court denies ST’s motion without prejudice to its resubmission following 17 further factual development. The Court notes, however, that even if ST meets the requirements for 18 sanctions under Rule 37(e), “the fact that

Rule[] 37(e) authorizes sanctions does not mean that 19 20 4 The Court grants ST's motion to strike Smahi's separately filed evidentiary objections because 21 they do not comply with Civil Local Rule 7-3(a), which requires such objections to be incorporated into the party's brief. The Court notes, however, that Smahi also raised the crux of 22 those objections in his opposition brief, such that they are therefore properly before the Court. See *PNY Techs., Inc. v. SanDisk Corp.*, 2014 WL 1677521, at *2 n.4 (N.D. Cal. Apr. 25, 2014). Smahi 23 argues that ST's motion is inappropriately based on inadmissible evidence including (1) the declaration of ST's litigation counsel, who Smahi argues lacks personal knowledge and expertise; 24 and (2) the forensic investigation report, which Smahi argues is hearsay not accompanied with a declaration. Whether or not these documents would be admissible on their own for the purposes of 25 the current motion, ST attached properly admissible evidence to its reply, including (1) a revised declaration of ST's litigation counsel asserting personal knowledge and including email 26 attachments; and (2) a declaration by the forensic investigator. The Court exercises its discretion to allow this evidence because it is consistent with the evidence presented in ST's original motion. 27 See *Hodges v. Hertz Corp.*, 351 F. Supp. 3d 1227, 1249 (N.D. Cal. 2018) (citing *Edgen Murray Corp. v. Vortex Marine Constr., Inc.*, 2018 WL 4203801, at *3 (N.D. Cal. June 27, 2018)). The 1 sanctions must be imposed. The Court retains discretion to determine what sanctions, if any, are 2 warranted." *Fast v. GoDaddy.com LLC*, 340 F.R.D. 326, 353 (D. Ariz. 2022). The committee 3 notes to Rule 37(e) expressly note that the "[t]he remedy should fit the wrong, and the severe 4 measures authorized by [Rule 37(e)(2)] should not be used when the information lost was 5 relatively unimportant." Fed. R. Civ. P. 37(e), advisory committee notes to 2015 amendment. 6 Applying this principle, the Court is skeptical that terminating sanctions with respect to Smahi's 7 affirmative claims would be appropriate even if ST ultimately proves spoliation.5 8 II. ST's motions to seal are granted in part and denied in part. 9 ST asks the Court to seal various documents submitted in support of its motion and 10 Smahi's opposition to its motion. 11 The public has a longstanding and well-recognized "right to inspect and copy public 12 records and documents, including judicial records and documents." *Nixon v. Warner Commc'ns, 13 Inc.*, 435 U.S. 589, 597 (1978). Public access bolsters "understanding of the judicial process" and 14 "confidence in the administration of justice," and it provides a "measure of accountability" for 15 courts. *Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1096 (9th Cir. 2016). There is 16 thus a "strong presumption in favor of access" to court records. *Kamakana v. City & Cnty. of 17 Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006). 18 To overcome this strong presumption, a party who wishes to seal a court record must 19 generally "articulate compelling reasons supported by specific factual findings ... that outweigh 20 the general history of access and the public policies favoring disclosure." *Kamakana*, 447 F.3d at 21 1178-79 (cleaned up). Sealing may be justified when "court files ... become a vehicle for improper 22 purposes, such as ... to gratify private spite, promote public scandal, circulate libelous statements, 23 5 Contrary to ST's arguments, the facts in *Leon v. IDX Sys. Corp.*, 464 F.3d 951, 956 (9th Cir. 24 2006), are

distinguishable from those here. In Leon, the Ninth Circuit affirmed as not an abuse of discretion the district court's issuance of case terminating sanctions against an employee who 25 spoliated evidence by wiping 2,200 files off his company computer, some of which the employee admitted included pornography downloaded to the company computer in contravention of 26 corporate policy. Id. at 959. This evidence bore directly upon the affirmative claims in Leon. Though ST argues that the destroyed evidence in this case might have related to Smahi's 27 residency, medical condition, and efforts to mitigate damages, the relationship of the alleged 1 or release trade secrets." Id. at 1179. But without more, the "fact that the production of records 2 || may lead to a litigant's embarrassment, incrimination, or exposure to further litigation" does not 3 || merit sealing. Id. "Under this stringent standard," the Court must "conscientiously balance the 4 || competing interests of the public and the party who seeks to keep certain judicial records secret." 5 Auto Safety, 809 F.3d at 1096-99. Civil Local Rule 79-5(c)(1) and (f)(3) requires the party 6 || seeking to seal to provide "a specific statement" of the reasons for doing so, explaining the 7 interests that warrant sealing and the injury that will otherwise result. 8 The Court finds compelling reasons for and grants ST's sealing requests at Dkt. Nos. 53 9 || and 65. The Court grants in part ST's sealing request at Dkt. No. 61 as to the proposed Exhibit B 10 || Erlewine declaration redactions but denies the rest of its request because ST does not offer 11 compelling reasons to seal public documents, Smahi's discussion of public documents, and other 12 || nonconfidential items. Within 14 days, the parties shall file on the public docket each of the 13 documents previously filed under seal with only those redactions permitted by this Order. 14 IT IS SO ORDERED. a 16 Dated: March 31, 2025 P. Casey PMts 19 United States District Judge 20 21 22 23 24 25 26 27 28