

**UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA**

Kimera Labs Inc. v. Jayashankar, et al.

Kimera Labs · No. 3:21-cv-02137-MMA-DDL · Decided May 2, 2025

OPINION

Kimera Labs Inc v. Jayashankar

PER CURIAM.

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10 UNITED STATES DISTRICT COURT

11 SOUTHERN DISTRICT OF CALIFORNIA

12 13 KIMERA LABS INC, Case No. 21-cv-2137-MMA-DDL 14 Plaintiff,

ORDER DENYING EX PARTE

15 v. MOTION TO FILE UNDER SEAL

WITHOUT PREJUDICE TO

16 RAJ JAYASHANKAR, et al.,

REFILING

17 Defendants. [Doc. No. 394] 18 19 20 21 22 23 On May 2, 2025, Defendants Raj Jayashankar, Exocel Bio Inc., Alejandro (Alex) 24 Contreras, and Deb Hubers (collectively “Defendants”) filed a motion, ex parte, to file 25 under seal their forthcoming motion brought pursuant to Daubert v. Merrell Dow 26 Pharms., Inc., 509 U.S. 579 (1993). Doc. No. 394. Defendants represent that Plaintiff 27 Kimera Labs Inc. (“Plaintiff”) does not oppose their motion to seal. Id. at 2. For the 28 reasons below, the Court DENIES Defendants’ motion without prejudice to refiling.

1 I. BACKGROUND

2 This action arises, in short, over allegations of corporate espionage and trade secret 3 misappropriation. Doc. No. 51 (“SAC”) ¶ 2. Plaintiff “is an FDA-registered tissue 4 processing laboratory that specializes in scientific research” Id. ¶ 1. Plaintiff 5 alleges that, by way of one of Plaintiff’s then-employees, Defendants Jayashankar, 6 Contreras, and Hubers “misappropriate[ed] and use[d] . . . [Plaintiff’s] trade secrets and 7 other confidential information to create Exocel Bio, a competing business[,] to 8 manufacture and sell the same kind of product as [Plaintiff].” Id. ¶ 2. 9 Plaintiff filed its initial complaint on December 28, 2021, an amended complaint 10 on May 11, 2022, and the operative second amended complaint on November 10, 2022. 11 See Doc. Nos. 1, 31, 51. Plaintiff brings two causes of action under the federal Trade 12 Secrets Act and one count of unjust enrichment under Florida law. SAC ¶¶ 14–68. The 13 parties have litigated this case since, developing an extensive record.

14 II. LEGAL STANDARD

15 “Historically, courts have recognized a ‘general right to inspect and copy public 16 records and documents, including judicial records and documents.’” *Kamakana v. City & 17 Cnty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (quoting *Nixon v. Warner 18 Commc’ns, Inc.*, 435 U.S. 589, 597 & n.7 (1978)). This is “because court records often 19 provide important, sometimes the only, bases or explanations for a court’s decision.” 20 *Oliner v. Kontrabecki*, 745 F.3d 1024, 1025 (9th Cir. 2014) (quotation marks omitted). 21 Accordingly, when considering a request to seal, “a strong presumption in favor of 22 access” is generally a court’s “starting point.” *United States v. Bus. of Custer Battlefield 23 Museum & Store*, 658 F.3d 1188, 1194 (9th Cir. 2011) (quoting *Kamakana*, 447 F.3d at 24 1178). For filings more than tangentially relevant to the case’s merits, that presumption 25 can be overcome only by a showing of a “compelling reason,” that “outweigh[s] the 26 general history of access and the public policies favoring disclosure.” *Id.* at 1194–95; 27 *Settrini v. City of San Diego*, No. 320CV02273RBMBGS, 2022 WL 6785755 *1 (S.D. 28 Cal. Oct. 11, 2022). “When the underlying motion does not surpass . . . tangential 1 relevance . . . [a] ‘good cause’ standard applies.” *Settrini*, 2022 WL 6785755 at *1.

2 III. DISCUSSION

3 Defendants move to seal their forthcoming Daubert motion and exhibits 4 concerning Plaintiff’s expert, Gary R. Trugman, CPA/ABV, FASA, MVS (“Trugman”). 5 Doc. No. 394 at 2. That motion, Defendants claim, 6 7 describes and/or attaches information and documents produced in this litigation that Kimera has designated “CONFIDENTIAL” and 8 “CONFIDENTIAL – FOR COUNSEL ONLY” pursuant to the Protective 9 Order [. . . which mandates that] a party seeking to file material designated confidential information “must seek permission of the Court to file the 10 material under seal.” 11 12 *Id.* 13 Defendants do not address whether their Daubert motion is subject to the 14 “compelling reason” or “good cause” standard. However, as a Daubert motion seeks to 15 exclude an expert witness’s testimony at trial, such a motion would generally relate more 16 than tangentially to the case’s merits. See generally *Daubert*, 509 U.S. 579. Previewing 17 the proposed sealed document, the Court determines for the purposes of this motion that 18 this is the case here. See Doc. No. 395. 19 Regardless, a blanket discovery protective order is not itself sufficient to show 20 good cause, let alone compelling reasons, for sealing particular documents. See *Foltz v. 21 State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1131, 1133 (9th Cir. 2003); *San Jose 22 Mercury News, Inc. v. U.S. District Court, N. Dist.*, 187 F.3d 1096, 1103 (9th Cir. 1999); 23 *Sihler v. Fulfillment Lab., Inc.*, No. 20cv1528-LL-MSB, 2023 WL 4339720, at *1 (S.D. 24 Cal. Mar. 13, 2023) (“The fact that the exhibits are subject to a protective order is not a 25 compelling reason.”). Defendants provide no explanation as to what substantive material 26 in the motion and exhibits warrants sealing, or why—beyond the fact that counsel marked 27 it “confidential” pursuant to the protective order. Doc. No. 394 at 2. Without such 28 explanation and argument, the Court cannot find that compelling reason or good cause 1 || exists to seal any material, let alone an entire motion.

2 IV. CONCLUSION

3 For these reasons, the Court DENIES Defendants' motion to file under seal 4 || without
prejudice to refiling. The Court further DIRECTS the Clerk of Court to strike 5 proposed sealed
filing, Doc. No. 395. Finally, the Court EXTENDS, sua sponte, the 6 || deadline for the parties to
file or refile dispositive motions, including Daubert motions, to 7 or before May 9, 2025. All other
dates and deadlines remain as scheduled. 8 IT IS SO ORDERED. 9 Dated: May 2, 2025 LM — /
ltr

10 HON. MICHAEL M. ANELLO

11 United States District Judge 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28