

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

M.A. Silva Corks USA, LLC, et al. v. M.A. Silva Holdings, Inc., et al.

No. 22-cv-04345-HSG, United States District Court for the Northern District of California (March 10, 2023)

SUMMARY

The United States District Court for the Northern District of California denied Plaintiffs’ administrative motions to file portions of their initial and first amended complaints under seal. Applying the compelling-reasons standard and Civil Local Rule 79-5, the Court held that the proposed redactions concerned allegations central to Plaintiffs’ claims and that the asserted competitive and reputational harms did not justify sealing. The Court directed Plaintiffs to file public versions of the documents within seven days.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Haywood S. Gilliam, Jr.
JURISDICTION	United States District Court for the Northern District of California
DECIDED	March 10, 2023
DOCKET	22-cv-04345-HSG
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs filed administrative motions to seal portions of their initial and first amended complaints.
STANDARD OF REVIEW	The court applied the compelling-reasons standard to materials attached to pleadings forming the basis of the action, requiring specific factual findings that the interests favoring secrecy outweigh the strong presumption of public access.
PRECEDENTIAL VALUE	Unknown
PARTIES	M.A. Silva Corks USA, LLC, et al. v. M.A. Silva Holdings, Inc., et al.

TOPICS

- pleadings
- civil procedure
- commercial litigation
- commercial

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the compelling-reasons standard governed plaintiffs' motions to seal portions of the initial and first amended complaints.
2. Whether plaintiffs demonstrated compelling reasons sufficient to overcome the strong presumption of public access to the allegations.
3. Whether plaintiffs should be permitted to withdraw the proposed sealed portions after denial of the motions.

HOLDINGS

1. The compelling-reasons standard applies to motions to seal portions of complaints because a complaint is the pleading on which the action is based.
2. Plaintiffs failed to establish compelling reasons to seal allegations that were central to their claims, and the motions to seal were therefore denied.
3. The court declined to permit plaintiffs to withdraw the proposed sealed portions of the complaint because the allegations were central to plaintiffs' claims.

FACTUAL BACKGROUND

Plaintiffs alleged that defendants sabotaged their business, causing customer complaints and reputational and financial harm. Plaintiffs sought to seal allegations describing defendants' business conduct, sales practices, competitive positions, and the alleged methods used to undermine the company's value. The court found those allegations central to the claims and necessary to public understanding of the judicial proceedings.

PROCEDURAL HISTORY

Plaintiffs moved to file portions of their complaints under seal. Plaintiffs filed an amended complaint before defendants answered, and the court considered the proposed sealing in light of the amended pleading. The court denied all three motions to seal and directed plaintiffs to file public versions within seven days.

DISPOSITION

other

CASES CITED

- *Pintos v. Pacific Creditors Association*, 605 F.3d 665, 678 (9th Cir. 2010)
- *Kamakana v. City & County of Honolulu*, 447 F.3d 1172, 1178-80 (9th Cir. 2006)
- *Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 598 (1978)
- *Phillips ex rel. Estates of Byrd v. General Motors Corp.*, 307 F.3d 1206, 1210-11 (9th Cir. 2002)
- *Beckman Industries, Inc. v. International Insurance Co.*, 966 F.2d 470, 476 (9th Cir. 1992)

- Space Data Corp. v. Alphabet Inc., No. 16-CV-03260-BLF, 2018 WL 10454862, at *2 (N.D. Cal. Aug. 31, 2018)
- In re iPhone Application Litigation, No. 11-MD-02250-LHK, 2013 WL 12335013, at *2 (N.D. Cal. Nov. 25, 2013)

OPINION

M.A. Silva Corks USA, LLC v. M.A. Silva Corticas, Lda.

PER CURIAM.

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4 UNITED STATES DISTRICT COURT

5 NORTHERN DISTRICT OF CALIFORNIA

6 7 M.A. SILVA CORKS USA, LLC, et al., Case No. 22-cv-04345-HSG 8 Plaintiffs, ORDER
DENYING ADMINISTRATIVE

MOTIONS TO SEAL

9 v. Re: Dkt. Nos. 2, 13, 34 10 M.A. SILVA HOLDINGS, INC., et al., 11 Defendants. 12 13
Pending before the Court are Plaintiffs' administrative motions to file documents under 14 seal.
Dkt. Nos. 2, 13, 34. For the reasons detailed below, the Court DENIES the motions.

15 I. LEGAL STANDARD

16 Courts generally apply a “compelling reasons” standard when considering motions to seal 17
documents. *Pintos v. Pac. Creditors Ass’n*, 605 F.3d 665, 678 (9th Cir. 2010) (quoting *Kamakana*
18 *v. City & Cty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006)). “This standard derives from
the 19 common law right ‘to inspect and copy public records and documents, including judicial
records 20 and documents.’” *Id.* (quoting *Kamakana*, 447 F.3d at 1178). “[A] strong presumption
in favor of 21 access is the starting point.” *Kamakana*, 447 F.3d at 1178 (quotations omitted). To
overcome this 22 strong presumption, the party seeking to seal a judicial record attached to a
dispositive motion 23 must “articulate compelling reasons supported by specific factual findings
that outweigh the 24 general history of access and the public policies favoring disclosure, such as
the public interest in 25 understanding the judicial process” and “significant public events.” *Id.* at
1178–79 (quotations 26 omitted). “In general, ‘compelling reasons’ sufficient to outweigh the
public’s interest in 27 disclosure and justify sealing court records exist when such ‘court files
might have become a 1 scandal, circulate libelous statements, or release trade secrets.’” *Id.* at 1179
(quoting *Nixon v. 2 Warner Commc’ns, Inc.*, 435 U.S. 589, 598 (1978)). “The mere fact that the
production of records 3 may lead to a litigant’s embarrassment, incrimination, or exposure to
further litigation will not, 4 without more, compel the court to seal its records.” *Id.* 5 The Court
must “balance[] the competing interests of the public and the party who seeks to 6 keep certain
judicial records secret. After considering these interests, if the court decides to seal 7 certain
judicial records, it must base its decision on a compelling reason and articulate the factual 8 basis
for its ruling, without relying on hypothesis or conjecture.” *Id.* Civil Local Rule 79-5 9

supplements the compelling reasons standard set forth in *Kamakana*: the party seeking to file a document or portions of it under seal must explain “(i) the legitimate private or public interests that warrant sealing; (ii) the injury that will result if sealing is denied; and (iii) why a less restrictive alternative to sealing is not sufficient.” Civil L.R. 79-5(c)(1). The request must be “narrowly tailored to seal only the sealable material.” *Id.* at 79-5(c)(3). Records attached to nondispositive motions must meet the lower “good cause” standard of Rule 26(c) of the Federal Rules of Civil Procedure, as such records “are often unrelated, or only tangentially related, to the underlying cause of action.” See *Kamakana*, 447 F.3d at 1179–80 (quotations omitted). This requires a “particularized showing” that “specific prejudice or harm will result” if the information is disclosed. *Phillips ex rel. Estates of Byrd v. Gen. Motors Corp.*, 307 F.3d 1206, 1210–11 (9th Cir. 2002); see also Fed. R. Civ. P. 26(c). “Broad allegations of harm, unsubstantiated by specific examples of articulated reasoning” will not suffice. *Beckman Indus., Inc. v. Int’l Ins. Co.*, 966 F.2d 470, 476 (9th Cir. 1992) (quotation omitted).

II. DISCUSSION

Here, Plaintiffs seek to file under seal portions of their initial and first amended complaints. Dkt. Nos. 2, 13, 34. Because the complaint is the pleading on which this action is based, the Court applies the “compelling reasons” standard to these motions. See, e.g., *Space Data Corp. v. Alphabet Inc.*, No. 16-CV-03260-BLF, 2018 WL 10454862, at *2 (N.D. Cal. Aug. 27, 2018) (finding compelling reasons standard governed motion to seal portions of the complaint) (“While a complaint is not, per se, the actual pleading by which a suit may be disposed of, it is the root, the foundation, the basis by which a suit arises and must be disposed of.”). As the Civil Local Rules make clear, “[o]nly in rare circumstances should a party seek to file portions of a pleading or brief under seal.” See Civil L.R. 79-5(e). As to Plaintiffs’ motions to seal portions of the initial complaint, Dkt. Nos. 2 and 13, the Court did not rely on that pleading because Plaintiffs filed an amended complaint before Defendants answered. Thus, the initial complaint is less significant to the public’s understanding of the judicial proceedings in this case. See *In re iPhone Application Litig.*, No. 11-MD-02250-LHK, 2013 WL 12335013, at *2 (N.D. Cal. Nov. 25, 2013) (“The public’s interest in accessing these documents is even further diminished in light of the fact that the Court will not have occasion to rule on Plaintiffs’ Motion for Class Certification.”). In any event, the reasons that Plaintiffs seek to seal the initial complaint are the same as its reasons for sealing the first amended complaint. Compare Dkt. Nos. 2 and 13, with Dkt. No. 34. The Court therefore addresses those arguments below. Plaintiffs argue that they seek to seal “highly-sensitive allegations about Defendants’ business conduct, sales practices, and competitive positions against the Plaintiffs.” See Dkt. No. 34 at 1. Specifically, these allegations contain “the exact methods Defendants have undertaken to undermine [the company’s] value.” *Id.* at 3. Plaintiffs urge that if made public, such allegations “would place the company at a competitive disadvantage if its competitors learned and used that information in the marketplace.” See *id.* at 2. However, the allegations contained in the

proposed redactions are critical (even central) to 22 Plaintiffs' claims in this case. At bottom, Plaintiffs contend in this case that Defendants sabotaged 23 their business, which led to customer complaints and caused them reputational and financial harm. 24 Plaintiffs seek to seal the alleged ways in which Defendants sabotaged the company. The "interest 25 in ensuring the public's understanding of the judicial process and of significant public events," 26 Kamakana, 447 at 1179, is thus not served if the fundamental basis for Plaintiffs' claims is 27 redacted from the complaint. The Court understands that Plaintiffs may be concerned about the 1 fact that the production of records may lead to a litigant's embarrassment, incrimination, or 2 || exposure to further litigation will not, without more, compel the court to seal its records." Id. 3 || Accordingly, the Court DENIES Plaintiffs' administrative motions to seal. 4 In at least one of their motions to seal Plaintiffs request that if the Court denies the motion, 5 || they be allowed to withdraw the materials. See Dkt. No. 13 at 29. When a court denies a motion 6 || to seal it may "determine whether to consider the information sought for sealing and require its 7 public filing, permit its withdrawal without considering the information, or order any other 8 disposition it deems proper. See Civil L.R. 79-5(g)(2) (emphasis added). However, the Court 9 finds that it would not be appropriate to permit Plaintiffs to withdraw these portions of the 10 || complaint. As explained above, these allegations are central to Plaintiffs' claims.

11 || 1. CONCLUSION

12 The Court DENIES Plaintiffs' administrative motion to file under seal, Dkt. Nos. 2, 13, 13 34, and DIRECTS Plaintiffs to file public versions of all documents for which the proposed 14 sealing has been denied within seven days of this order. 3 15 IT IS SO ORDERED. a 16 || Dated: 3/10/2023 Aspe 3 bbl) HAYWOOD S. GILLIAM, JR. Z 18 United States District Judge 19 20 21 22 23 24 25 26 27 28