

**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)

OPINION

1 2 3 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 10 document or portions of it under seal

must explain “(i) the legitimate private or public interests 11 that warrant sealing; (ii) the injury that will result if sealing is denied; and (iii) why a less 12 restrictive alternative to sealing is not sufficient.” Civil L.R.

79-5(c)(1). The request must be 13 “narrowly tailored to seal only the sealable material.” *Id.* at 79-5(c)(3). 14 Records attached to nondispositive motions must meet the lower “good cause” standard of 15 Rule 26(c) of the Federal Rules of Civil Procedure, as such records “are often unrelated, or only 16 tangentially related, to the underlying cause of action.” See *Kamakana*, 447 F.3d at 1179–80 17 (quotations omitted).

This requires a “particularized showing” that “specific prejudice or harm 18 will result” if the information is disclosed. *Phillips ex rel. Estates of Byrd v. Gen. Motors Corp.*, 19 307 F.3d 1206, 1210–11 (9th Cir. 2002); see also Fed. R. Civ. P. 26(c). “Broad allegations of 20 harm, unsubstantiated by specific examples of articulated reasoning” will not suffice.

Beckman 21 Indus., Inc. v. Int’l Ins. Co., 966 F.2d 470, 476 (9th Cir. 1992) (quotation omitted). 22 II. DISCUSSION 23 Here, Plaintiffs seek to file under seal portions of their initial and first amended 24 complaints. Dkt. Nos. 2, 13, 34.

Because the complaint is the pleading on which this action is 25 based, the Court applies the “compelling reasons” standard to these motions. See, e.g., *Space 26 Data Corp. v. Alphabet Inc.*, No. 16-CV-03260-BLF, 2018 WL 10454862, at *2 (N.D. Cal. Aug. 27 31, 2018) (finding compelling reasons standard governed motion to seal portions of the 1 (N.D. Cal. Apr.

23, 2008) (“While a complaint is not, per se, the actual pleading by which a suit 2 may be disposed of, it is the root, the foundation, the basis by which a suit arises and must be 3 disposed of.”). As the Civil Local Rules make clear, “[o]nly in rare circumstances should a party 4 seek to file portions of a pleading or brief under seal.” See Civil L.R. 79-5(e).

5 As to Plaintiffs’ motions to seal portions of the initial complaint, Dkt. Nos. 2 and 13, the 6 Court did not rely on that pleading because Plaintiffs filed an amended complaint before 7 Defendants answered. Thus, the initial complaint is less significant to the public’s understanding 8 of the judicial proceedings in this case. See *In re iPhone Application Litig.*, No. 11-MD-02250- 9 LHK, 2013 WL 12335013, at *2 (N.D.

Cal. Nov. 25, 2013) (“The public’s interest in accessing 10 these documents is even further diminished in light of the fact that the Court will not have 11 occasion to rule on Plaintiffs’ Motion for Class Certification.”).

In any event, the reasons that 12 Plaintiffs seek to seal the initial complaint are the same as its reasons for sealing the first amended 13 complaint. Compare Dkt. Nos. 2 and 13, with Dkt. No. 34. The Court therefore addresses those 14 arguments below. 15 Plaintiffs argue that they seek to

seal “highly-sensitive allegations about Defendants’ 16 business conduct, sales practices, and competitive positions against the Plaintiffs.” See Dkt.

No. 17 34 at 1. Specifically, these allegations contain “the exact methods Defendants have undertaken to 18 undermine [the company’s] value.” Id. at 3. Plaintiffs urge that if made public, such allegations 19 “would place the company at a competitive disadvantage if its competitors learned and used that 20 information in the marketplace.” See id. at 2. 21 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