

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

LeGrand v. Abbott Laboratories

No. 22-cv-05815-TSH (N.D. Cal. July 15, 2025) · No. 22-cv-05815-TSH · Decided July 15, 2025

SUMMARY

The United States District Court for the Northern District of California resolves five administrative motions to seal documents filed in connection with class-certification and Daubert proceedings in a putative consumer class action concerning allegedly misleading Ensure nutrition-drink labels. The court applies the compelling-reasons standard, grants Abbott’s second motion in full, grants LeGrand’s first motion in part, and denies the remaining motions, directing the parties to file specified materials publicly with appropriate redactions or without redactions.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Thomas S. Hixson
JURISDICTION	United States District Court for the Northern District of California
DECIDED	July 15, 2025
DOCKET	22-cv-05815-TSH
DISPOSITION	other
PROCEDURAL POSTURE	Order resolving five administrative motions to file documents under seal in a putative consumer class action.
STANDARD OF REVIEW	Motions to seal judicial records connected to motions more than tangentially related to the merits are governed by the compelling-reasons standard; documents attached to non-dispositive motions may be sealed upon a good-cause showing under Federal Rule of Civil Procedure 26(c).
PRECEDENTIAL VALUE	unpublished district court order; persuasive but not binding outside the case
PARTIES	Condalisa LeGrand v. Abbott Laboratories

TOPICS

- class actions
- civil procedure

PRACTICE AREAS

civil procedure

consumer protection

class actions

trade secrets and confidential business information

QUESTIONS PRESENTED

1. Whether documents filed in connection with class-certification motions and a Daubert motion addressing central class-certification issues were subject to the compelling-reasons standard for sealing.
2. Whether the parties established compelling reasons under the applicable standard and Civil Local Rule 79-5 to seal the identified documents or portions of documents.
3. Whether a party's failure to file the statement or declaration required by Civil Local Rule 79-5 justified denial of the sealing motion and public filing of the documents.

HOLDINGS

1. The compelling-reasons standard applies to documents filed in connection with motions for class certification because such motions and their attached documents are more than tangentially related to the merits of the action.
2. Specific confidential business information, including trade secrets, marketing strategies, product-development information, detailed product-specific financial information, and internal reports, may be redacted when the evidence establishes that public disclosure would cause competitive harm.
3. When the designating party fails to file the statement or declaration required by Civil Local Rule 79-5, the court may deny the sealing motion and direct that the documents be filed in the public record.

KEY QUOTATIONS

“Historically, courts have recognized a ‘general right to inspect and copy public records and documents, including judicial records and documents.’” (at 1)

“a strong presumption in favor of access is the starting point.” (at 1)

“A party must . . . avoid wherever possible sealing entire documents (as opposed to merely redacting the truly sensitive information in a document).” (at 6)

FACTUAL BACKGROUND

LeGrand challenged allegedly false or misleading statements on Abbott's Ensure nutrition-drink labels in a putative class action. The sealing motions concerned deposition excerpts, declarations, expert materials, class-certification briefing, and briefing concerning a Daubert motion. The materials included alleged confidential marketing strategies, market research, sales data, product-development information, and other business information.

PROCEDURAL HISTORY

LeGrand filed a putative class action alleging that statements on Abbott's Ensure nutrition-drink labels were false and misleading. The parties filed administrative motions seeking to seal documents submitted in connection with

class-certification briefing and a Daubert motion. The court granted some sealing requests, denied others, and directed the parties to file documents publicly with specified redactions or without redactions.

DISPOSITION

other

REMAND INSTRUCTIONS

No remand. The court directed Abbott or LeGrand, as applicable, to file specified documents in the public record within the stated three-to-seven-day periods, with narrowly tailored redactions where authorized.

CASES CITED

- Kamakana v. City and County of Honolulu, 447 F.3d 1172, 1178-80 (9th Cir. 2006)
- Nixon v. Warner Communications, Inc., 435 U.S. 589, 597 n.7 (1978)
- Center for Auto Safety v. Chrysler Group, LLC, 809 F.3d 1092, 1099-1100 (9th Cir. 2016)
- Guynn-Neupane v. Mahna Legal Services, LLC, No. 19-cv-02652-VKD, 2021 WL 4481661, at *1 n.3 (N.D. Cal. Sept. 30, 2021)
- Adtrader, Inc. v. Google LLC, No. 17-cv-07082-BLF, 2020 WL 6395513, at *1 (N.D. Cal. Feb. 4, 2020)
- Yan Mei Zheng v. Toyota Motor Corp., No. 17-cv-06591-BLF, 2019 WL 6841324, at *1 (N.D. Cal. Dec. 16, 2019)
- Fodera v. Equinox Holdings, Inc., 341 F.R.D. 616, 635 (N.D. Cal. 2022)
- Regis Metro Associates, Inc. v. NBR Co., LLC, No. 20-cv-02309-DMR, 2022 WL 267443, at *14 (N.D. Cal. Jan. 28, 2022)
- In re Apple Inc. Device Performance Litigation, No. 5:18-md-02827-EJD, 2019 WL 1767158, at *2 (N.D. Cal. Apr. 22, 2019)
- Bronson v. Samsung Electronics America, Inc., No. C 18-02300 WHA, 2019 WL 7810811, at *1 (N.D. Cal. May 28, 2019)

OPINION

1 2 3 4 UNITED STATES DISTRICT COURT 5 NORTHERN DISTRICT OF CALIFORNIA 6 7
CONDALISA LEGRAND, Case No. 22-cv-05815-TSH 8 Plaintiff, ORDER RE:
ADMINISTRATIVE 9 v. MOTIONS TO FILE UNDER SEAL 10 ABBOTT LABORATORIES,
Re: Dkt. Nos. 137, 161, 162, 170, 171 11 Defendant. 12 13 I. INTRODUCTION 14 Condalisa
LeGrand brings this putative class action against Abbott Laboratories 15 (“Abbott”), alleging
certain statements on the labels of Abbott’s Ensure® nutrition drinks are false 16 and misleading.

ECF No. 116 (Second Amended Complaint). Pending before the Court are two 17 administrative
motions to file under seal brought by LeGrand (ECF Nos. 137, 171) and three 18 administrative
motions to file under seal brought by Abbott (ECF Nos. 161, 162, 170).

For the 19 reasons set forth below, the Court GRANTS IN PART and DENIES IN PART LeGrand's first 20 Motion, DENIES LeGrand's second Motion, DENIES Abbott's first Motion, GRANTS Abbott's 21 second Motion, and DENIES Abbott's third Motion.¹ 22 II. LEGAL STANDARD 23 "Historically, courts have recognized a 'general right to inspect and copy public records 24 and documents, including judicial records and documents.'" *Kamakana v. City and Cty. of 25 Honolulu*, 447 F.3d 1172, 1178 (9th Cir.

2006) (quoting *Nixon v. Warner Commc'ns, Inc.*, 435 26 U.S. 589, 597, n.7 (1978)). Courts generally apply a "compelling reasons" standard when 27 1 considering motions to seal, recognizing that "a strong presumption in favor of access is the 2 starting point." *Id.* (cleaned up). Parties seeking to seal judicial records relating to motions that 3 are "more than tangentially related to the underlying cause of action," *Ctr. for Auto Safety v. 4 Chrysler Grp., LLC*, 809 F.3d 1092, 1099 (9th Cir.

2016), bear the burden of overcoming the 5 presumption with "compelling reasons supported by specific factual findings that outweigh the 6 general history of access and the public policies favoring disclosure," *Kamakana*, 447 F.3d at 7 1178–79 (cleaned up). By contrast, a "good cause showing" under Federal Rule of Civil 8 Procedure 26(c) "will suffice to keep sealed records attached to non-dispositive motions." 9 *Kamakana*, 447 F.3d at 1180.

10 Here, the documents at issue in LeGrand's Administrative Motions (ECF Nos. 137, 171) 11 were filed in connection with her Motion for Class Certification and corresponding Reply (ECF 12 Nos. 137-3, 168). The documents at issue in Abbott's first and second Administrative Motions 13 (ECF Nos. 161, 162) were filed in connection with its Opposition to the Motion for Class 14 Certification (ECF No. 161-4).

Motions for Class Certification, along with their attached 15 documents, are more than tangentially related to the merits of a case. See, e.g., *Guynn-Neupane v. 16 Mahna Legal Serv., LLC*, No. 19-cv-02652-VKD, 2021 WL 4481661, at *1 n.3 (N.D. Cal. Sept. 17 30, 2021) (applying compelling reasons standard to motions to seal documents relating to class 18 certification); *Adtrader, Inc. v. Google LLC*, No. 17-cv-07082-BLF, 2020 WL 6395513, at *1 19 (N.D.

Cal. Feb. 4, 2020) (same); *Yan Mei Zheng v. Toyota Motor Corp.*, No. 17-cv-06591-BLF, 20 2019 WL 6841324, at *1 (N.D. Cal. Dec. 16, 2019) (same). Accordingly, the compelling reasons 21 standard applies to LeGrand's administrative motions and to Abbott's first and second 22 administrative motions. 23 The documents at issue in Abbott's third Administrative Motion (ECF No. 170) were filed 24 by Abbott in connection with its Reply in Support of its Daubert Motion to Exclude (ECF No. 25 170-4).

Where, as here, a Daubert motion pertains to central issues bearing on a motion for class certification, the compelling reasons standard applies. Cf. *Ctr. for Auto Safety*, 809 F.3d at 1100 (treating Daubert motion as dispositive because it “pertain[ed] to central issues bearing on 1 see also *Fodera v. Equinox Holdings, Inc.*, 341 F.R.D. 616, 635 (N.D. Cal. 2022) (applying 2 compelling reasons standard to documents bearing on predominance).

Accordingly, the 3 compelling reasons standard applies to Abbott’s third administrative motion. 4 Civil Local Rule 79-5 supplements the “compelling reasons” standard. *Exeltis*, 2020 WL 5 2838812, at *1. Where, as here, a filing party (the “Filing Party”) seeks to seal a filed document 6 because that document has been designated as confidential by another party (the “Designating 7 Party”), the Filing Party must file an Administrative Motion to Consider Whether Another Party’s 8 Material Should Be Sealed.

CIV. L.R. 79-5(f). This motion must identify each document or 9 portions thereof for which sealing is sought. Id. “Within 7 days of the motion’s filing, the 10 Designating Party must file a statement and/or declaration” including “a specific statement of the 11 applicable legal standard and the reasons for keeping a document under seal.” Id. at 79-5(c)(1), 12 (f).

That statement must include (i) the legitimate private or public interests that warrant sealing; 13 (ii) the injury that will result if sealing is denied; and (iii) why a less restrictive alternative to 14 sealing is not sufficient. Id. at 79-5(c)(1). A failure to file a statement or declaration may result in 15 the unsealing of the provisionally sealed document without notice to the Designating Party.

Id. 16 Under Civil Local Rule 79-5, a motion to seal a party’s own document must include “a 17 specific statement of the applicable legal standard and the reasons for keeping a document under 18 seal, including an explanation of... why a less restrictive alternative to sealing is not sufficient.” 19 Id. (emphasis in original).

The motion must also include “a proposed order that is narrowly 20 tailored to seal only the sealable material.” Id. at 79-5(c)(3). “A party must... avoid wherever 21 possible sealing entire documents (as opposed to merely redacting the truly sensitive information 22 in a document).” Id. at 79-5(a). “Supporting declarations may not rely on vague boilerplate 23 language or nebulous assertions of potential harm but must explain with particularity why any 24 document or portion thereof remains sealable under the applicable legal standard.” *Bronson v. 25 Samsung Elecs.*

Am., Inc., No. C 18-02300 WHA, 2019 WL 7810811, at *1 (N.D. Cal. May 28, 26 2019) (citing CIV. L.R. 79-5). “Reference to a stipulation or protective order that allows a party to 27 designate certain documents as confidential is not sufficient to establish that a document, or 1 III. LEGRAND’S MOTIONS TO SEAL 2 A. ECF No. 137 3 On January 23, 2025, LeGrand filed an Administrative Motion to Consider Whether Another 4 Party’s Material Should Be Sealed, pursuant to Civil Local Rule 79-5, in connection with her 5 Motion for Class Certification.

ECF Nos. 137, 137-3. LeGrand moves to file sixteen documents 6 under seal on the basis that they were designated as “Confidential” or “Highly Confidential” by 7 Abbott: 8 • Declaration of Melanie R. Monroe (“Monroe Decl.”), Ex. 2 (ECF No. 137-4) 9 • Monroe Decl., Ex. 7 (ECF No. 137-5) 10 • Monroe Decl., Ex. 8 (ECF No. 137-6) 11 • Monroe Decl., Ex. 9 (ECF No. 137-7) 12 • Monroe Decl., Ex. 10 (ECF No. 137-8) 13 • Monroe Decl., Ex. 11 (ECF No. 137-9) 14 • Monroe Decl., Ex. 19 (ECF No. 137-10) 15 • Monroe Decl., Ex. 20 (ECF No. 137-11) 16 • Monroe Decl., Ex. 21 (ECF No. 137-12) 17 • Monroe Decl., Ex. 23 (ECF No. 137-13) 18 • Monroe Decl., Ex. 24 (ECF No. 137-14) 19 • Monroe Decl., Ex. 25 (ECF No. 137-15) 20 • Monroe Decl., Ex. 26 (ECF No. 137-16) 21 • Monroe Decl., Ex. 27 (ECF No. 137-17) 22 • Monroe Decl., Ex. 29 (ECF No. 137-18) 23 • Monroe Decl., Ex. 31 (ECF No. 137-19) 24 ECF No. 137.

LeGrand also seeks sealing of certain portions of three documents on the basis that 25 they quote from and discuss the above documents: 26 • LeGrand’s Motion for Class Certification (“Mot. Cert.”) (ECF No. 137-3) 27 • Expert Declaration of Dr. Michael Greger (“Greger Decl.”) (ECF No. 137-20) 1 Id. 2 On January 30, 2025, Abbott responded to LeGrand’s first Administrative Motion 3 requesting sealing of the following thirteen documents identified by LeGrand: 4 • Monroe Decl., Ex. 2 (91:20–23; 104:1, 5–7, 20–24; 167:1–21; 209:2–6; 221:1–3) 5 • Monroe Decl., Ex. 7 (4-6, 13–14, 16) 6 • Monroe Decl., Ex. 8 (7, 9–10, 58–59, 67, 76, 79, 81) 7 • Monroe Decl., Ex. 9 (4–5, 14–15, 24, 41) 8 • Monroe Decl., Ex. 10 (2–3, 5–10, 12–30, 32–36) 9 • Monroe Decl., Ex. 11 (2–14) 10 • Monroe Decl., Ex. 19 (1–10, 12–16) 11 • Monroe Decl., Ex. 20 (6, 9, 10) 12 • Monroe Decl., Ex. 21 (2–6) 13 • Monroe Decl., Ex. 26 (2, 4–11) 14 • Greger Decl.

(Page 29: all of LeGrand’s designations) 15 • Weir Decl. (Pages 6–7: all of LeGrand’s designations) 16 • Mot. Cert. (3:13–16; 3:18–21; 3:27–28; 4:1–6; 5:19–22; 5:28–6:1, 6:3–4; 6:16–20; 17 9:28; 11:27–28; 12:1–10, 12:20–23) 18 ECF Nos. 140, 140-1.

In support of its request, Abbott submits declarations from Tracie Bryant 19 and Meaghan Bird setting forth the bases for sealing the documents. See Declaration of Tracie L. 20 Bryant (“Bryant Decl.”) (ECF No. 140-1); Declaration of Meaghan Bird (“Bird Decl.”) (ECF No. 21 140-3). 22 On February 3, 2025, LeGrand filed a Partial Opposition to Abbott’s Statement in Support 23 of Sealing.

ECF No. 141. LeGrand opposes Abbott’s request to seal the following eight 24 documents: 25 • Monroe Decl., Ex. 2 (all portions identified by Abbott) 26 • Monroe Decl., Ex. 7 (4, 6, 14) 27 • Monroe Decl., Ex. 10 (2–3, 12, 15, 20, 22) 1 • Monroe Decl., Ex. 20 (6) 2 • Monroe Decl., Ex. 21 (2–3) 3 • Weir Decl. (¶¶ 23–24, 27, and part of ¶ 26) 4 • Mot. Cert. (6:1–4) 5 Id. LeGrand argues that for these documents, Abbott has not met its burden to show that the 6 documents should be sealed.

Id. 7 All of Abbott’s sealing requests relate to documents that “reveal Abbott’s business strategy 8 related to the marketing and pricing of its Ensure® products, Abbott’s internal marketing research

9 and analysis, and confidential financial data.” ECF No. 140. Overall, Abbott argues that sealing 10 is required because public disclosure of Abbott’s highly confidential and trade secret information 11 would cause Abbott competitive harm.

Id. Specifically, Exhibit 2 is an excerpt from the 12 deposition of Ms. Bird that discusses non-public marketing strategies and market research and 13 analysis. Bryant Decl. ¶ 3. Exhibit 7 discusses Abbott’s marketing strategy for two groups of 14 target customers and analyses of its competitors. Id. at ¶ 4. Exhibit 8 discusses business strategy, 15 including Abbott’s confidential instructions for creating advertisements.

Id. at ¶ 5. Exhibit 9 16 discusses specific tasks for the marketing team to target consumers and market research. Id. at ¶ 17 6. Exhibit 10 discusses a marketing study used to drive health care provider recommendations and 18 analyses of Abbott’s competitors. Id. at ¶ 7. Exhibit 11 discusses market research and marketing 19 strategies. Id. at ¶ 8. Exhibit 19 discusses marketing strategies with recommendations based on 20 market research and analyses of Abbott’s competitors.

Id. at ¶ 9. Exhibit 20 discusses market 21 research and survey group data. Id. at ¶ 10. Exhibit 21 discusses market research and marketing 22 strategy based on focus group surveys. Id. at ¶ 11. Exhibit 26 discusses business strategies and 23 possible product formula changes. Id. at ¶ 12.

The portions of the Motion for Class Certification, 24 Greger Declaration, and Weir Declaration identified by Abbott cite or quote from the foregoing 25 documents. Id. at ¶¶ 13–15. 26 LeGrand responds that the Court previously found that Abbott failed to articulate its 27 reasoning for sealing certain testimony by Meaghan Bird and that it was not evident that 1 According to LeGrand, Abbott’s requests should again be denied for these reasons.² Id. 2 Specifically, LeGrand posits the following arguments regarding portions that should not be sealed.

3 Exhibit 2 contains information that is publicly available, including through publicly filed 4 documents in this case, and is too general to cause harm. Id. at 2–3. Exhibit 7 contains general 5 demographic information and publicly available information and advertising. Id. at 3. Exhibit 10 6 contains general information that could not cause competitive harm.

Id. Exhibit 11 contains 7 general information about the study. Id. at 3–4. Exhibit 20 contains an overview of a decade old 8 study. Id. at 4. Exhibit 21 discusses broad research goals and study design. Id. The Weir 9 Declaration contains general information, much of which was publicly disclosed. Id. 10 The Court has reviewed the requested portions to be sealed.

The Court agrees that there 11 are compelling reasons to redact the portions requested by Abbott in the Motion for Class 12 Certification (ECF No. 137-3), Monroe Decl., Ex. 2 (ECF No. 137-4), Monroe Decl., Ex. 8 (ECF 13 No. 137-6), Monroe Decl., Ex. 9 (ECF No. 137-7), Monroe Decl., Ex. 10 (ECF No. 137-8), 14 Monroe Decl., Ex. 11 (ECF No. 137-9), Monroe Decl., Ex. 19 (ECF

No. 137-10), Monroe Decl., 15 Ex. 20 (ECF No. 137-11), Monroe Decl., Ex. 21 (ECF No. 137-12), Monroe Decl., Ex. 26 (ECF 16 No. 137-16), Greger Decl.

(ECF No. 137-20), and Weir Decl. (ECF No. 137-21) as they relate to 17 confidential business documents. See *Regis Metro Associates, Inc. v. NBR Co., LLC*, No. 20-cv- 18 02309-DMR, 2022 WL 267443, at *14 (N.D. Cal. Jan. 28, 2022) (granting motion to seal because 19 “[a]ll of the documents contain sensitive business information or may be subject to confidentiality 20 agreements”); *In re Apple Inc. Device Performance Litigation*, No. 5:18-md-02827-EJD, 2019 21 WL 1767158, at *2 (N.D.

Cal. Apr. 22, 2019) (noting that under the compelling reasons standard, 22 courts have upheld the sealing of “trade secrets, marketing strategies, product development plans, 23 detailed product specific financial information, customer information, internal reports, and other 24 such materials that would harm a party’s competitive standing”).

The Court also finds that 25 compelling reasons exist to redact Monroe Decl., Ex. 7 (ECF No. 137-5), at 5, 13, 16. However, 26 27 2 LeGrand relies on an incorrect standard—as discussed above, here, the compelling reasons 1 the Court agrees with LeGrand that compelling reasons do not exist to redact Monroe Decl., Ex. 7, 2 at 4, 6, 14, because it contains general information and publicly available advertising information.

3 Accordingly, the Court GRANTS LeGrand’s first Administrative Motion to seal the 4 Motion for Class Certification (ECF No. 137-3), Monroe Decl., Ex. 2 (ECF No. 137-4), Monroe 5 Decl., Ex. 7 (ECF No. 137-5), Monroe Decl., Ex. 8 (ECF No. 137-6), Monroe Decl., Ex. 9 (ECF 6 No. 137-7), Monroe Decl., Ex. 10 (ECF No. 137-8), Monroe Decl., Ex. 11 (ECF No. 137-9), 7 Monroe Decl., Ex. 19 (ECF No. 137-10), Monroe Decl., Ex. 20 (ECF No. 137-11), Monroe Decl., 8 Ex. 21 (ECF No. 137-12), Monroe Decl., Ex. 26 (ECF No. 137-16), Greger Decl.

(ECF No. 137- 9 20), and Weir Decl. (ECF No. 137-21). Abbott is hereby DIRECTED to file those documents in 10 the public record within three days with redactions as specified above. 11 In its response to LeGrand’s first Administrative Motion, Abbott states that it does not seek 12 sealing of six documents: Monroe Decl., Exs. 23, 24, 25, 27, 29, 31. ECF No. 140.

Accordingly, 13 the Court DENIES LeGrand’s first Administrative Motion to seal Monroe Decl., Ex. 23 (ECF No. 14 137-13), Monroe Decl., Ex. 24 (ECF No. 137-14), Monroe Decl., Ex. 25 (ECF No. 137-15), 15 Monroe Decl., Ex. 27 (ECF No. 137-17), Monroe Decl., Ex. 29 (ECF No. 137-18), and Monroe 16 Decl., Ex. 31 (ECF No. 137-19), and LeGrand is hereby DIRECTED to file the items at issue in 17 the public record no sooner than three days and no later than seven days from the date of this 18 order.

19 In addition, LeGrand requests that the Court “now Order unsealed Exhibit 1 to the parties’ 20 Joint Statement regarding the Motion to Maintain Confidentiality, Dkt. No. 124-1.” ECF No. 141,

21 at 3. According to LeGrand, Abbott did not file the required narrowly tailored redactions. Id. 22 LeGrand is correct that on January 9, 2025, the Court ordered Abbott to file “narrowly tailored 23 proposed redactions within seven days of this order” for the excerpts from the Deposition of 24 Meaghan Bird (Joint Statement, Ex. 1 (ECF No. 125-3)).³ See ECF No. 130 (Order on Motion to 25 Seal).

Abbott did not do so. Accordingly, the Court DENIES LeGrand’s Administrative Motion 26 at ECF No. 125 to seal Joint Statement, Ex. 1 (ECF No. 125-3), and LeGrand is hereby 27 1 DIRECTED to file the item at issue in the public record no sooner than three days and no later 2 than seven days from the date of this order.

The Court has not done a line by line comparison of 3 ECF No. 125-3 (which is to be filed publicly) against the portions of Monroe Decl., Ex. 2 (ECF 4 No. 137-4) that the Court has ordered sealed, to see if there is any overlap. If there is, the 5 unsealing of ECF No. 125-3 takes precedence and such material shall not be sealed in Monroe 6 Decl., Ex. 2. 7 B. ECF No. 171 8 On June 23, 2025, LeGrand filed an Administrative Motion to Consider Whether Another 9 Party’s Material Should Be Sealed, pursuant to Civil Local Rule 79-5, in connection with her Reply 10 in Support of her Motion for Class Certification.

ECF Nos. 168, 171. LeGrand seeks sealing of 11 portions of one document on the basis that it was designated as “Confidential” by Abbott: Reply 12 Declaration of Jack Fitzgerald, Ex. 2 (Deposition of Meaghan Bird) (ECF No. 171-3). ECF No. 13 171. LeGrand also states that portions of ECF No. 171-3 are quoted and discussed in her Reply 14 but does not identify the affected portions of her Reply (ECF No. 168).

Id. 15 Under Civil Local Rule 79-5(f)(3), Abbott had seven days to file a statement or declaration 16 justifying the sealing. Abbott did not do so. Accordingly, the Court DENIES LeGrand’s second 17 Administrative Motion to seal ECF Nos. 1684 and 171-3, and LeGrand is hereby DIRECTED to 18 file the item at issue in the public record no sooner than three days and no later than seven days 19 from the date of this order.

20 IV. ABBOTT’S MOTIONS TO SEAL 21 A. ECF No. 161 22 On April 24, 2025, Abbott filed an Administrative Motion to Consider Whether Another 23 Party’s Material Should Be Sealed, pursuant to Civil Local Rule 79-5, in connection with its 24 Opposition to LeGrand’s Motion for Class Certification. ECF Nos. 161, 161-4. Abbott moves to 25 file one document under seal on the basis that it was designated as “Confidential” by LeGrand: 26 27 4 LeGrand filed an unredacted version of her Reply on the public docket and did not file a redacted 1 Declaration of Michael A. Glick, Ex. 10 (Deposition of Condalisa LeGrand) (ECF No. 161-3).

2 ECF No. 161. Abbott also seeks sealing of portions of one document on the basis that it quotes 3 from ECF No. 161-3: Abbott’s Opposition to LeGrand’s Motion for Class Certification (ECF No.

4 161-4). Id. 5 Under Civil Local Rule 79-5(f)(3), LeGrand had seven days to file a statement or 6 declaration justifying the sealing. LeGrand did not do so.

Accordingly, the Court DENIES 7 Abbott's first Administrative Motion to seal ECF Nos. 161-3 and 161-4, and Abbott is hereby 8 DIRECTED to file the items at issue in the public record no sooner than three days and no later 9 than seven days from the date of this order. 10 B. ECF No. 162 11 On April 24, 2025, Abbott filed an Administrative Motion to File Documents Under Seal, 12 pursuant to Civil Local Rule 79-5, in connection with its Opposition to LeGrand's Motion for 13 Class Certification.

ECF Nos. 162, 162-15. Abbott moves to file one document under seal on the 14 basis that Abbott designated the document as "Confidential": Declaration of Michael Glick 15 ("Glick Decl."), Ex. 2 (ECF No. 162-4). ECF No. 162. Abbott also seeks sealing of portions of 16 ten documents on the basis that Abbott designated the documents as "Confidential" or "Highly 17 Confidential": 18 • Abbott's Opposition to LeGrand's Motion for Class Certification (ECF No. 162- 19 15) (5:1, 3, 9–11, 16, 17; 15:10, 12, 15, 26–27; 17:5; 20:18; 24:11) 20 • Glick Decl., Ex. 1 (ECF No. 162-3) (Slides 5–6, 12-13, 16) 21 • Glick Decl., Ex. 5 (ECF No. 162-5) (Slides 3–6) 22 • Glick Decl., Ex. 6 (ECF No. 162-6) (Slides 45–46 (and accompanying speaker 23 notes), 48) 24 • Glick Decl., Ex. 7 (ECF No. 162-7) (Slides 23–25, 27) 25 • Glick Decl., Ex. 8 (ECF No. 162-8) (Slides 1–5) 26 • Glick Decl., Ex. 9 (ECF No. 162-9) (Slides 21–25, 43–45, 47, 94–98) 27 • Glick Decl., Ex. 11 (ECF No. 162-10) (Page 27, ¶ 62; Page 32, ¶ 77; Page 33, ¶ 79) 1 • Glick Decl., Ex. 23 (ECF No. 162-12) (Page 10, ¶ 29; Page 11, Exhibit 1) 2 Id.; ECF No. 162-1.

In support of its request, Abbott submits declarations from Tracie Bryant and 3 Jena Rostorfer setting forth the bases for sealing the documents. See Declaration of Tracie L. 4 Bryant ("Bryant Decl. #2") (ECF No. 162-1); Declaration of Jena Rostorfer (ECF No. 162-14). 5 All of Abbott's sealing requests relate to documents that "reveal Abbott's business strategy 6 related to the marketing and pricing of its Ensure® products, Abbott's internal marketing research 7 and analysis, and confidential financial data." ECF No. 162.

Overall. Abbott argues that sealing 8 is required because public disclosure of Abbott's highly confidential and trade secret information 9 would cause Abbott competitive harm. Id. Specifically, Exhibit 1 discusses "Abbott's non-public 10 marketing strategies relating to specific products, pricing strategies for certain products, and 11 confidential market research and analysis concerning consumers." Bryant Decl. #2 ¶ 3.

Exhibit 2 12 discusses draft marketing materials not adopted by Abbott. Id. at ¶ 4. Exhibit 5 discusses non- 13 public sales data and confidential market research. Id. at ¶ 5. Exhibit 6 discusses confidential 14 marketing and business strategies. Id. at ¶ 6. Exhibit 7 discusses marketing studies and survey 15 groups. Id. at ¶ 7. Exhibit 8 discusses market research and sales data.

Id. at ¶ 8. Exhibit 9 16 discusses marketing studies and survey group results. Id. at ¶ 9. Exhibit 11 is Abbott's expert 17 report that discusses non-public data from habits and practices surveys. Id. at ¶ 10. Exhibit 18 18 discusses marketing studies and survey results. Id. at ¶ 11. Exhibit 23 is Abbott's expert report 19 that discusses confidential sales data.

Id. at ¶ 12. The portions of the Opposition to Class 20 Certification identified by Abbott cite or quote from the foregoing documents. Id. at ¶¶ 13–14. 21 The Court has reviewed the requested portions to be sealed. The Court agrees that there 22 are compelling reasons to redact the requested portions as they relate to confidential business 23 documents. See *In re Apple Inc. Device Performance Litigation*, 2019 WL 1767158, at *2.

24 Accordingly, the Court GRANTS Abbott's second Administrative Motion to seal Glick 25 Decl., Ex. 1 (ECF No. 162-3), Glick Decl., Ex. 2 (ECF No. 162-4), Glick Decl., Ex. 5 (ECF No. 26 162-5), Glick Decl., Ex. 6 (ECF No. 162-6), Glick Decl., Ex. 7 (ECF No. 162-7), Glick Decl., Ex. 27 8 (ECF No. 162-8), Glick Decl., Ex. 9 (ECF No. 162-9), Glick Decl., Ex. 11 (ECF No. 162-10), 1 to Class Certification (ECF No. 162-15).

As the redacted versions of the documents for which 2 || Abbott proposes redactions have already been filed in the public record, no further action is 3 needed with respect to these documents. 4 C., ECF No. 170 5 On June 20, 2025, Abbott filed an Administrative Motion to Consider Whether Another 6 || Party's Material Should Be Sealed, pursuant to Civil Local Rule 79-5, in connection with its Reply 7 || in Support of its Motion to Exclude.

ECF Nos. 170, 170-4. Abbott moves to file one document 8 || under seal on the basis that it was designated as "Confidential" by LeGrand: Declaration of Tracie 9 L. Bryant, Ex. 1 (Deposition of Condalisa LeGrand) (ECF No. 170-3). ECF No. 170. Abbott also 10 seeks sealing of portions of one document on the basis that it quotes from ECF No. 170-3: 11 Abbott's Reply in Support of its Motion to Exclude (ECF No. 170-4).

Id. 12 Under Civil Local Rule 79-5(f)(3), LeGrand had seven days to file a statement or 5 13 declaration justifying the sealing. LeGrand did not do so. Accordingly, the Court DENIES 14 Abbott's third Administrative Motion to seal ECF Nos. 170-3 and 170-4, and Abbott is hereby 3 15 DIRECTED to file the items at issue in the public record no sooner than three days and no later a 16 || than seven days from the date of this order.

2 17 Vv. CONCLUSION Z 18 For the foregoing reasons, LeGrand's first Administrative Motion is GRANTED IN 19 PART and DENIED IN PART, LeGrand's second Administrative Motion is DENIED, Abbott's 20 first Administrative Motion is DENIED, Abbott's second Administrative Motion is GRANTED, 21 and Abbott's third Administrative Motion is DENIED. 22 IT IS SO ORDERED. 23 24 Dated: July 15, 2025 25 LU \: 6 THOMAS S. HIXSON United States Magistrate Judge 27 28

