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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CASCADE YARNS, INC., a Washington
corporation,

Plaintiff,

v.

KNITTING FEVER, INC., a New York
corporation, et al.,

Defendants.

CASE NO. C10-861RSM

ORDER ON MOTIONS TO SEAL

This matter is before the Court for consideration of plaintiff’s five pending motions to seal documents. Dkt. ## 348, 356, 361, 374, 381. The Court finds and rules as follows:

(1) The Court will not grant broad authority to file documents under seal simply because the parties have designated them as confidential in the course of discovery. “There is a strong presumption of public access to the court’s files and records which may be overcome only on a compelling showing that the public’s right of access is outweighed by the interests of the public and the parties in protecting files, records, or documents from public review.” Local Rule CR 5(g)(2). Whenever possible, sensitive information should be protected by redaction, not by requesting to seal the entire document. Local Rule CR 5(g)(3). A motion to seal should include an explanation as to why redaction is not feasible. *Id.*

(2) Parties seeking an order to seal any document must provide a specific description of the particular document or category of documents they seek to protect and “a clear statement of the facts justifying a seal and overcoming the strong presumption in favor of public access.” Local Rule CR

1 5(g)(2). The facts supporting any motion to seal, even an agreed or stipulated motion, must be provided
2 by declaration or by affidavit. To obtain a court order sealing documents attached in support of a non-
3 dispositive motion, the parties must make a particularized showing under the “good cause” standard of
4 F.R.Civ.P. 26(c). *See, Kamakana v. City and County of Honolulu*, 447 F. 3d 1172, 1179 (9th Cir. 2006).
5 While the parties may agree on confidentiality among themselves, when they ask for the involvement of
6 the Court in sealing documents, they must make the requisite showing as to each document.

7 (3) Under Local Rule CR 7(d)(2), motions to seal are to be noted for the second Friday after
8 filing, or later. The intent of this rule is that if a party seeks to file documents deemed confidential by
9 another party, the party with an interest in maintaining confidentiality may make the requisite showing
10 under Local Rule 5(g)(4) by filing a response to the motion to seal. In the absence of such showing by
11 the party who wishes to maintain the confidentiality of the documents, a motion to seal shall be denied
12 and the document shall be unsealed.

13 (4) Plaintiff’s motion to seal at Dkt. # 348 was properly noted for the third Friday after filing,
14 and no party has responded to either support or oppose it. In reviewing the documents which plaintiff
15 proposes to seal, the Court finds only a few lines of text marked “highly confidential” by the opposing
16 side in Exhibits F and I, and nothing designated as “highly confidential” in Exhibit G. Plaintiff’s motion
17 has failed to explain why these few lines could not be redacted. Local Rule 5(g)(3).

18 (5) Plaintiff’s motion to seal, filed at Dkt. # 348, is accordingly DENIED. **The Clerk shall**
19 **UNSEAL documents filed at Dkt. # 351** (comprising Exhibits F, G, and I to the Declaration of Robert
20 Guite, Dkt. # 350) within three days of this date, unless plaintiff has before that date filed notice that the
21 documents shall be withdrawn.

22 (6) Plaintiff’s motions to seal at Dkt. ## 356, 361, 374, and 381 have all been improperly noted
23 for the same day as they were filed. The Court is aware that these documents were each filed in support
24 of a Local Rule CR 37(b) submission which itself is noted for the same day it was filed. However, this
25 noting date for the motions to seal has deprived the parties with an interest in maintaining
26 confidentiality of the documents of an opportunity to make the requisite showing to maintain the
27 documents under seal as required by Local Rule CR 5(g)(4).

1 (7) Accordingly, **the Clerk is hereby directed to RE-NOTE plaintiff's four motions to seal,**
2 Dkt. ## 356, 361, 374, and 381, to Friday, December 2, 2011. A party who wishes to support the
3 confidentiality of the relevant documents may do so by filing a response to the motion to seal on or
4 before November 28, 2011.

5 (8) Two documents filed under seal by plaintiff have not been addressed in any of plaintiff's
6 motions to seal. Specifically, plaintiff's motion to seal at Dkt. # 361 asks to seal "portions of the
7 Declaration and Supplemental Declaration of Robert J. Guite that Cascade is submitting in support of its
8 contemporaneously-filed CR 37 submission." Dkt. # 361. This motion does not address the Rule 37
9 submission itself, filed under seal at Dkt. # 363. Further, plaintiff's motion to seal at Dkt. # 382 asks the
10 Court to keep under seal "each of its unredacted CR 37 submissions" regarding interrogatories to
11 Debbie Bliss, Sion Elalouf, and Jay Opperman. Dkt. # 381. These CR 37 submissions have been filed
12 at Dkt. ## 382, 385, and 391, respectively. Plaintiff's motion does not address Dkt. # 388, comprising
13 Exhibits B, C, and D to the Declaration of Robert Guite filed at Dkt. # 387.

14 (9) Accordingly, **the Clerk is hereby directed to UNSEAL** Dkt. ## 363 and 388. This result is
15 not prejudicial to the opposing parties, as the Court has reviewed the documents and notes that had a
16 motion to seal been filed regarding these documents, the Court would deny it for failure to overcome the
17 strong presumption of public access to Court files.

18 (10) The parties, and particularly plaintiff, are cautioned to avoid the unnecessary filing of
19 documents under seal. Further, the parties are advised they shall not file documents as exhibits in
20 support of a motion or declaration unless the document is actually referenced in that motion or
21 declaration. *See, e.g.*, Exhibit B to the Declaration of Robert Guite, Dkt. # 388, which is nowhere
22 referenced in the Rule CR 37 motion, Dkt. # 385.

23 DATED: November 22, 2011.

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25 RICARDO S. MARTINEZ
26 UNITED STATES DISTRICT JUDGE
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