

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

STACIE RAY, *et al.*,

Plaintiffs,

v.

Case No. 2:18-cv-272
Judge Michael H. Watson
Magistrate Judge Chelsey M. Vascura

AMY ACTON, *et al.*,

Defendants.

ORDER

This matter is before the Court for consideration of the parties' Joint Motion to File Single Copies of Deposition Transcripts and to File Certain Transcripts and Motions Under Seal ("Motion," ECF No. 51.) In their Motion, the parties propose to file, in connection with their forthcoming cross-motions for summary judgment, (1) only one copy of each deposition transcript in total; (2) the deposition transcript of Plaintiff Jane Doe under seal, as well as a version of the transcript on the public docket redacting identifying information subject to a protective order maintaining the anonymity of Jane Doe (ECF No. 9); and (3) the parties' briefs under seal, as well as versions of the briefs on the public docket redacting information designated "confidential" or "attorney's eyes only" under a separate Stipulated Protective Order (ECF No. 34). For the following reasons, the parties' Motion is **GRANTED IN PART and DENIED WITHOUT PREJUDICE IN PART**.

First, the parties may file only one copy of each deposition transcript as proposed. That portion of the parties' Motion is **GRANTED**.

As to requests to file documents under seal, there is a strong presumption in favor of public access to judicial records. *Stanley v. Turner Oil & Gas Properties, Inc.*, No. 2:16-CV-386, 2017 WL 5068444, at *1 (S.D. Ohio July 24, 2017). The Sixth Circuit recently affirmed that documents filed with the Court may be placed under seal “[o]nly for the most compelling reasons.” *Shane Grp., Inc. v. Blue Cross Blue Shield of Michigan*, 825 F.3d 299, 305 (6th Cir. 2016) (quoting *In re Knoxville News-Sentinel Co.*, 723 F.2d 470, 476 (6th Cir. 1983)). “A movant’s obligation to provide compelling reasons justifying the seal exists even if the parties themselves agree the filings should be sealed.” *White v. Wilberforce Univ.*, No. 1:16-CV-1165, 2017 WL 3537233, at *2 (S.D. Ohio Aug. 17, 2017) (emphasis in original) (citing *Rudd Equip. Co., Inc. v. John Deere Constr. & Forestry Co.*, 834 F.3d 589, 595 (6th Cir. 2016)). The proponent of sealing therefore must “analyze in detail, document by document, the propriety of secrecy, providing reasons and legal citations.” *Shane Grp., Inc.*, 825 F.3d at 305 (quoting *Baxter Int’l, Inc. v. Abbott Labs.*, 297 F.3d 544, 548 (7th Cir. 2002)). These reasons and legal citations must be sufficient for a district court to “set forth specific findings and conclusions which justify nondisclosure to the public.” *Rudd Equip. Co., Inc.*, 834 F.3d at 594.

Here, Plaintiffs have already demonstrated the necessity of protecting the anonymity of Jane Doe, and the Court has already granted leave to file documents containing information as to her identity under seal. (ECF No. 9.) Accordingly, that portion of the parties’ Motion is **GRANTED**. However, the parties’ Motion fails to meet the high standard set forth by the Sixth Circuit as to information designated “confidential” or “attorney’s eyes only.” The parties fail to set forth compelling reasons justifying the sealing of documents, asserting only that the documents in question have been designated by one or more parties as “confidential” or “attorney’s eyes only” under an agreed protective order. This agreement, standing alone, does

not constitute a compelling reason for filing under seal. *See Brown & Williamson Tobacco Corp. v. F.T.C.*, 710 F.2d 1165, 1180 (6th Cir. 1983) (holding that a “confidentiality agreement between the parties does not bind the court in any way”); *White*, 2017 WL 3537233, at *2 (finding the parties’ joint motion to file under seal woefully inadequate where they merely asserted that they decided to keep the terms of their settlement confidential); *In re Black Diamond Mining Co., LLC*, No. 15-96, 2016 WL 4433356, at *3 (E.D. Ky. Aug. 18, 2016) (explaining that the existence of a confidentiality agreement, alone, is not a compelling reason to seal a record). Thus, even where documents are designated “Confidential,” the moving party must provide compelling reasons justifying the sealing of those documents.

The Court notes that the proponent of the sealing bears the burden of providing compelling reasons. Thus, whichever party desires that the subject documents be filed under seal must file a motion that complies with the standards set forth by the Sixth Circuit and demonstrates good cause for sealing the documents.

For the above-stated reasons, the parties’ Motion (ECF No. 51) is **GRANTED IN PART and DENIED WITHOUT PREJUDICE IN PART**. The parties may file only one copy of each deposition transcript as proposed. The parties may also file the deposition transcript of Jane Doe and summary judgment briefs under seal to the extent they contain identifying information as to Plaintiff Jane Doe, with versions filed on the public docket redacting such information. However, if the parties also wish to redact information designated “confidential” or “attorney’s eyes only” under the Stipulated Protective Order (ECF No. 34), the proponent of the seal must file a properly supported motion that demonstrates good cause for filing under seal. The parties are cautioned that any forthcoming motions regarding filing documents under seal should be

narrowly tailored, as the sealing of documents must be no broader than necessary. *See Shane Group, Inc.*, 825 F.3d at 305.

IT IS SO ORDERED.

/s/ Chelsey M. Vascura _____
CHELSEY M. VASCURA
UNITED STATES MAGISTRATE JUDGE