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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

OTO ANALYTICS, LLC,

Petitioner,

v.

BENWORTH CAPITAL PARTNERS
LLC,

Respondent.

Case No. 3:24-CV-03975-AMO

**PETITIONER'S ADMINISTRATIVE
MOTION TO FILE UNDER SEAL**

Judge Martínez-Olguín

Pursuant to Civil Local Rules 7-11 and 79-5, Petitioner Oto Analytics, LLC (f/k/a Oto Analytics, Inc., d/b/a Womply) (“Womply”) moves to keep under seal two paragraphs in its Notice of Motion and Motion to Confirm Arbitration Award And For Entry of Judgment (“Motion”) and two exhibits to the accompanying Declaration of Alexander L. Cheney (“Cheney Declaration” or “Cheney Decl.”), all of which contain or reference inflammatory and false accusations against the non-party arbitrator.

During the arbitration underlying the Motion, Respondent Benworth Capital Partners LLC (“Benworth”) sought to disqualify the arbitrator for purported bias ten days before the arbitration hearing. On March 10, 2023, Benworth filed a letter-motion seeking to disqualify the arbitrator, and Womply filed its opposition four days later. (Cheney Decl. Exs. 9–10.) A member of the JAMS National Arbitration Committee, which had no role in the arbitration itself, investigated Benworth’s allegations, recognized that Benworth “raise[d] these issues for the first time[] approximately ten days before the start of the arbitration hearing,” concluded that “there is no material proof of bias by the arbitrator,” and denied the motion. (*Id.* Ex. 11.) Womply seeks to keep under seal these two documents, which are appended as Exhibits 9 and 10 to the Cheney Declaration, and to redact Paragraphs 32–33 of its Motion, which reference them.

Docket No.	Document	Page/Line Nos.
41	Notice of Motion and Motion to Confirm Arbitration Award And For Entry of Judgment	Page 9, Line(s) 1–28 Page 10, Line(s) 1–5
41-11	Exhibit 9 to the Cheney Declaration, Benworth’s March 10, 2023 Letter to JAMS (“Motion to Disqualify”)	In its entirety
41-12	Exhibit 10 to the Cheney Declaration, Petitioner’s March 14, 2023, Opposition to the Motion to Disqualify (“Opp. to Mot. to Disqualify”)	In its entirety

Courts recognize a limited “presumption in favor of access to court records,” which can be overcome by any “compelling reason.” *Ctr. for Auto Safety v. Chrysler Grp.*, 809 F.3d 1092, 1096–99 (9th Cir. 2016) (cleaned up; collecting cases). “What constitutes a ‘compelling reason’ is ‘best

1 left to the sound discretion of the trial court,” and includes “when a court record might be used to
2 ‘gratify private spite or promote public scandal,’ to circulate ‘libelous’ statements, or ‘as sources
3 of business information that might harm a litigant’s competitive standing.” *Id.* at 1097 (quoting
4 *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 598 (1978)). Courts are particularly sensitive to
5 “privacy interests,” and routinely permit “redacting documents to protect the privacy interests of
6 innocent third parties.” *United States v. Business of Custer Battlefield Museum & Store*, 658 F.3d
7 1188, 1195 n.5 (9th Cir. 2011) (collecting cases). Courts also consider the confidential nature of
8 arbitration proceedings in addressing later motions to seal arbitration information. *See, e.g., Zitan*
9 *Techs., LLC v. Liang Yu*, 2021 WL 3024284, at *3 n.2 (D. Nev. July 16, 2021).

10 There are compelling reasons to keep these two documents sealed to protect the privacy and
11 reputation of the arbitrator, who is not a party of this action. Benworth made highly inflammatory
12 and false accusations of bias against the arbitrator for strategic advance in the arbitration. A neutral
13 third party investigated these allegations and found them to be meritless. This Court must
14 “conscientiously balance the competing interest of the public and the party who seeks to keep
15 certain judicial records secret,” and there is no public interest in broadcasting false allegations. *Ctr.*
16 *for Auto Safety*, 809 F.3d at 1097 (cleaned up). To the contrary, such false allegations of bias “have
17 significant potential to tar the reputation[]” of the arbitrator who is not a party to this action will
18 therefore “have no formal opportunity to clear [his] name[.]” *United States v. Kwok Cheung Chow*,
19 2015 WL 5094744, at *4 (N.D. Cal. Aug 28, 2015) (citing *United States v. Index Newspapers LLC*,
20 766 F.3d 1072, 1084 (9th Cir. 2014)). Publicly disclosing these allegations raises “the ‘danger that
21 the court could become a partner in the use of [arbitration] material to gratify private spite or
22 promote public scandal, with no corresponding assurance of public benefit.’” *Id.* (quoting *Nixon*,
23 435 U.S. at 598) (cleaned up). Courts in this Circuit routinely seal and redact documents “to assure
24 that individuals who are accused but exonerated are not held to public ridicule,” *id.* (quoting *Index*
25 *Newspapers*, 766 F.3 at 1084), and to protect the “strong interest in maintaining the privacy” of
26 “third parties who have not chosen to have their personnel records placed into the public record.”
27 *TriQuint Semiconductor, Inc. v. Avago Techs. Ltd.*, 2011 WL 4947343, at *3 (D. Ariz. Oct. 18,
28 2011) (sealing “two exhibits containing personnel records”).

Date: August 20, 2024

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CERTIFICATE OF SERVICE

I hereby certify that on August 20, 2024, I served a copy of Petitioner's Administrative Motion to File Under Seal; Petitioner's Notice of Motion and Motion to Confirm Arbitration Award And For Entry of Judgment; Exhibit 9 to the Cheney Declaration; and Exhibit 10 to the Cheney Declaration, by transmitting via e-mail or electronic transmission the foregoing documents to the persons at the e-mail addresses set forth below:

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Dated: August 20, 2024

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