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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

DEPUTY 

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

TODD NASH,

Plaintiff,

vs.
LIFE INSURANCE COMPANY OF
NORTH AMERICA, an Illinois
corporation; LONG TERM DISABILITY
INSURANCE PLAN FOR
ADMINISTAFF OF TEXAS INC. AND
PARTICIPATING COMPANIES a group
of welfare benefits plans under ERISA,

Defendants.

CASE NO. 08cv893 WQH (RBB)
ORDER

HAYES, Judge:

The matter before the Court is the Joint Motion to Manually File Unredacted Administrative Record Under Seal. (Doc. # 51). The parties contend redacting social security numbers, dates of birth, the names of minor children, and financial account numbers from the administrative record is "impracticable" because the record is "approximately 4,500 pages" long. *Id.* at 2.

Pursuant to Federal Rule of Civil Procedure 5.2(a),

Unless the court orders otherwise, in an electronic or paper filing with the court that contains an individual's social-security number, taxpayer-identification number, or birth date, the name of an individual known to be a minor, or a financial-account number, a party or nonparty making the filing may include only:
(1) the last four digits of the social-security number and taxpayer-identification

- 1 number;
- 2 (2) the year of the individual's birth;
- 3 (3) the minor's initials; and
- 4 (4) the last four digits of the financial-account number.

5 Pursuant to Federal Rule of Civil Procedure 5.2(d), a court "may order that a filing be
6 made under seal without redaction." However, even if a court orders an undredacted
7 version filed under seal, it may subsequently "order the person who made the filing to
8 file a redacted version for the public record." *Id.*

9 "Historically, courts have recognized a 'general right to inspect and copy public records
10 and documents, including judicial records and documents.'" *Kamakana v. City and County of*
11 *Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (quoting *Nixon v. Warner Communs., Inc.*, 435
12 U.S. 589, 597 & n.7 (1978)). Except for documents that are traditionally kept secret, there is
13 "a strong presumption in favor of access to court records." *Foltz v. State Farm Mut. Auto. Ins.*
14 *Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003); *see also Kamakana*, 447 F.3d at 1278-79. "A party
15 seeking to seal a judicial record then bears the burden of overcoming this strong presumption
16 by meeting the compelling reasons standard. That is, the party must articulate compelling
17 reasons supported by specific factual findings, . . . that outweigh the general history of access
18 and the public policies favoring disclosure, such as the public interest in understanding the
19 judicial process." *Kamakana*, 447 F.3d at 1278-79 (citations and quotation marks omitted).
20 The presumed right to access to court proceedings and documents can be overcome "only be
21 an overriding right or interest 'based on findings that closure is essential to preserve higher
22 values and is narrowly tailored to serve that interest.'" *Oregonian Publishing Co. v. United*
23 *States District Court*, 920 F.3d 1462, 1465 (9th Cir. 1990) (quoting *Press-Enterprise Co. v.*
24 *Superior Court*, 446 U.S. 501, 510 (1985)).

25 In order to seal the administrative record in this case, as opposed to simply redacting
26 the portions which must be redacted pursuant to Federal Rule of Civil Procedure 5.2(a), the
27 parties must satisfy the "compelling reason" standard established by *Foltz* and *Kamakana*. *See*
28 *Foltz*, 331 F.3d at 1135; *Kamakana*, 447 F.3d at 1278-79. The parties' motion is solely based
on the difficulty of redacting 4,500 pages of documents, a task which they contend is
"impracticable." The work of redacting these documents is not a "compelling reason" to

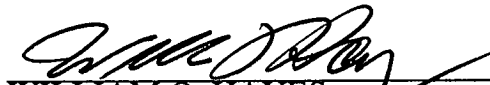
1 override the public's right of access to court records. While it may be burdensome for the
2 parties to comply with Federal Rule of Civil Procedure 5.2, the Court finds that any burden to
3 the parties does not overcome the "strong presumption in favor of access to court records."
4 *See Kamakana*, 447 F.3d at 1278-79.

5 **IT IS HEREBY ORDERED THAT** the Joint Motion to Manually File Unredacted
6 Administrative Record Under Seal is **DENIED**. (Doc. # 51).

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9 DATED: 5/18/10


WILLIAM Q. HAYES
UNITED STATES DISTRICT JUDGE

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