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5 UNITED STATES DISTRICT COURT  
6 EASTERN DISTRICT OF CALIFORNIA  
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8 QUENTIN HALL, SHAWN GONZALES,  
9 ROBERT MERRYMAN, DAWN SINGH,  
10 and BRIAN MURPHY, on behalf of  
themselves and all others similarly situated,

11 Plaintiffs,

12 v.

13 COUNTY OF FRESNO

14 Defendant.

No. 1:11-CV-02047-LJO-BAM

**ORDER GRANTING JOINT REQUEST  
TO SEAL DOCUMENTS**

**DIRECTING CLERK TO FILE  
DOCUMENTS UNDER SEAL**

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16 The parties jointly move for an order directing the clerk to file under seal the expert  
17 reports prepared for the parties for purposes of the settlement negotiations. Specifically, the  
18 parties request to seal the expert reports of (1) Dr. Michael Puisis regarding Fresno County Jail's  
19 medical program, (2) Richard Hayward, Ph.D., regarding Fresno County Jail's mental health  
20 program, (3) David Rardin, regarding Fresno County Jail's Operations Review, and (4) Disability  
21 Rights California, regarding Fresno County Jail's ADA procedures and practices. The reports  
22 have been consecutively paginated with Bates numbers "Hall Expert Reports-000001" through  
23 "Hall Expert Reports-000132."

24 The Ninth Circuit has comprehensively examined the common law right of public access  
25 to judicial files and records. *See Kamakana v. City and County of Honolulu*, 447 F.3d 1172 (9th  
26 Cir.2006). In *Kamakana*, the court recognized that different interests are at stake in preserving the  
27 secrecy of materials produced during discovery, and materials produced or presented in relation  
28 to dispositive motions. *Id.* at 1180–81. According to the court, two standards apply to account for

1 these interests when evaluating requests to seal such materials. A party seeking to seal “private  
2 materials unearthed during discovery,” or to maintain the sealing of such materials when attached  
3 to non-dispositive motions, need only demonstrate “good cause” to justify sealing. *Pintos v. Pac.*  
4 *Creditors Ass’n*, 605 F.3d 665, 678 (9th Cir.2010).

5 A party must demonstrate “compelling reasons” to seal judicial records attached to a  
6 dispositive motion. *Kamakana*, 447 F.3d at 1179. Here, the expert reports are submitted as part  
7 of the Court’s approval of the class settlement. The Court finds that approval of the parties’  
8 settlement agreement is a dispositive motion and there must be a “compelling reason” to keep the  
9 materials under seal. *See Kamakana*, 447 F.3d at 1178–1180; *M.P. ex rel. Provins v. Lowe’s*  
10 *Companies, Inc.*, 2012 WL 1574801, at \*1 (E.D. Cal. May 3, 2012) (applying “compelling  
11 reasons” standard related to a minor’s settlement because an order approving settlement is  
12 dispositive). *Select Portfolio Servicing v. Valentino*, No. 12–cv–0334 SI, 2013 WL 1800039, at  
13 \*2–3 (N.D. Cal. Apr.29, 2013) (observing that district courts in this circuit differ on whether a  
14 motion to approve a settlement agreement that releases parties from a case is dispositive or non-  
15 dispositive for sealing purposes). Those compelling reasons must outweigh the competing  
16 interests of the public in having access to the judicial records and understanding the judicial  
17 process. *Kamakana*, 447 F.3d at 1178–79; *see also Pintos*, 605 F.3d at 679 & n. 6 (court must  
18 weigh “relevant factors,” including the public’s interest in understanding the judicial process).  
19 The Ninth Circuit has indicated that “‘compelling reasons’ sufficient to outweigh the public’s  
20 interest in disclosure and justify sealing court records exist when such ‘court files might have  
21 become a vehicle for improper purposes,’ such as the use of records to gratify private spite,  
22 promote public scandal. . .” *Kamakana*, 447 F.3d at 1179.

23 After reviewing the documents in question, and in light of the entirety of proceedings in  
24 this case, the Court finds compelling reason to file the expert reports under seal. The Court has  
25 considered the reasons for disclosing the requested sealed records and the need for public access  
26 to judicial records. The Court is cognizant that this case involves a public entity’s management of  
27 its jail facility, and in a normal case, such information should be public information on the  
28 Court’s docket, if filed with a dispositive motion.

1 In this situation, however, the interest in fostering settlement of such a complex case  
2 necessitates sealing the documents and outweighs the public policy of disclosure. From the  
3 beginning of the case, the parties, rather than take the typical litigation adversarial posture,  
4 elected to work cooperatively together to achieve the best results for the jail population, in light of  
5 the claims alleged, and to keep costs and expenses while doing so down. Rather than use the  
6 adversarial system, which permits each side to select its own expert witnesses, the parties elected  
7 to work together. The parties jointly selected experts for a thorough evaluation of jail conditions,  
8 resulting in the free-flow of information, with an eye towards correction of identified issues. The  
9 parties worked in a non-adversarial nature, with the agreement and expectation that preliminary  
10 findings would be subject to confidentiality. Each of the expert reports contains information  
11 about internal, confidential or security processes. The reports were prepared as part of the  
12 extended settlement negotiations, which were monitored through all stages by the Court.  
13 Throughout extended negotiations, as various jail issues were discussed, the Court has been  
14 involved, informed, and monitored these settlement negotiations. The parties jointly selected the  
15 experts to provide confidential information to candidly assess deficiencies in the jail system for  
16 the purpose of negotiating the settlement, inform the Court of such deficiencies and methods of  
17 correction, and to provide a factual framework for the development of the settlement agreement.  
18 The Court finds that this type of settlement-driven, cooperative conduct, which ultimately inured  
19 to the public benefit, should be encouraged.

20 At issue in deciding whether to seal the expert reports is the competing public policy  
21 interests: the interest in fostering efficient and effective settlement and resolution of complex  
22 litigation versus the interest in public disclosure of judicial documents. Public disclosure would  
23 undermine the confidential nature of the settlement discussions which led to the ultimate  
24 settlement and jeopardized the unique, nonadversarial method counsel and the parties undertook  
25 to reach settlement.

26 Further, the Court finds that any harm from sealing the expert reports is mitigated in this  
27 case. The final settlement, terms of the settlement, and detailed remedial plan are filed in the  
28 docket and the public is informed of the monetary and nonmonetary resolution of this long-

1 running case. The balance of interest tips in favor of sealing, and the Court finds compelling  
2 reason to file the documents under seal.

3 **CONCLUSION**

4 The motion to seal is GRANTED as a compelling reason has been found to preserve the  
5 confidentiality of (1) Dr. Michael Puisis regarding Fresno County Jail's medical program, (2)  
6 Richard Hayward, Ph.D., regarding Fresno County Jail's mental health program, (3) David  
7 Rardin, regarding Fresno County Jail's Operations Review, and (4) Disability Rights California,  
8 regarding Fresno County Jail's ADA procedures and practices.

9 The Clerk is directed to file under seal All Expert Reports Bates Numbered (Bates  
10 numbers "Hall Expert Reports-000001" through "Hall Expert Reports-000132.")

11 IT IS SO ORDERED.  
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13 Dated: June 8, 2015

14 /s/ Barbara A. McAuliffe  
15 UNITED STATES MAGISTRATE JUDGE  
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