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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

GORDON C. REID,  
Plaintiff,  
vs.  
UNITED STATES OF AMERICA, et al.,  
Defendant.

1:14-cv-01163-BAK-(GSA)-PC  
**ORDER FOR CLERK TO FILE  
DEFENDANT GARCIA’S  
CONFIDENTIAL SETTLEMENT  
CONFERENCE STATEMENT UNDER  
SEAL  
(ECF No. 139.)**

**I. BACKGROUND**

Plaintiff Gordon C. Reid is proceeding with counsel in this civil rights action pursuant to Bivens vs. Six Unknown Agents, 403 U.S. 388 (1971).

This case is scheduled for a settlement conference on June 16, 2022. The parties were ordered to each submit a confidential settlement conference statement directly to chambers no later than seven days prior to the settlement conference, and not to file the statements. (ECF No. 117.) However, on June 10, 2022, defendant Garcia filed a confidential settlement conference statement. (ECF No. 139.)

**II. LEGAL STANDARD**

There is a “general right to inspect and copy public records and documents, including judicial records and documents.” Nixon v. Warner Commc'ns, Inc., 435 U.S. 589, 597 & n.7 (1978). “This right is justified by the interest of citizens in ‘keep[ing] a watchful eye on the

1 workings of public agencies.” Kamakana v. City & Cty. of Honolulu, 447 F.3d 1172, 1178 (9th  
2 Cir. 2006) (quoting Nixon, 435 U.S. at 598). “Nonetheless, access to judicial records is not  
3 absolute. A narrow range of documents is not subject to the right of public access at all because  
4 the records have ‘traditionally been kept secret for important policy reasons.’” Id. (quoting Times  
5 Mirror Co. v. United States, 873 F.2d 1210, 1219 (9th Cir. 1989)). “Unless a particular court  
6 record is one ‘traditionally kept secret,’ a ‘strong presumption in favor of access’ is the starting  
7 point.” Id.

8 Two standards generally govern the sealing of documents. Pintos v. Pac. Creditors Ass'n,  
9 605 F.3d 665, 677 (9th Cir. 2010). “[J]udicial records attached to dispositive motions [are treated]  
10 differently from records attached to non-dispositive motions. Those who seek to maintain the  
11 secrecy of documents attached to dispositive motions must meet the high threshold of showing  
12 that ‘compelling reasons’ support secrecy.” Kamakana, 447 F.3d at 1180 (citations omitted). In  
13 contrast, a “‘good cause’ showing under [Federal Rule of Civil Procedure] 26(c) will suffice to  
14 keep sealed records attached to non-dispositive motions.” Id. The reason for the two different  
15 standards is that “[n]on-dispositive motions are often unrelated, or only tangentially related, to the  
16 underlying cause of action, and, as a result, the public’s interest in accessing dispositive materials  
17 does not apply with equal force to non-dispositive materials.” Pintos, 605 F.3d at 678 (quotations  
18 omitted).

### 19 **III. ANALYSIS**

20 Here, defense counsel did not file the settlement conference statement under seal, nor was  
21 it accompanied by a motion to seal as required by Local Rule 141. Because the statement was  
22 not filed in conjunction with a dispositive motion, only good cause is required to seal it. The  
23 Court finds that this standard is met and will accordingly order the statement to be filed under  
24 seal.

25 “Confidential settlements benefit society and the parties involved by resolving disputes  
26 relatively quickly, with slight judicial intervention, and presumably result in greater satisfaction  
27 to the parties.” Kalinauskas v. Wong, 151 F.R.D. 363, 365 (D. Nev. 1993). “Sound judicial  
28 policy fosters and protects this form of alternative dispute resolution.” Id. (citing Fed. R. Evid.

1 408 for the proposition that it “protects compromises and offers to compromise by rendering  
2 them inadmissible to prove liability”).

3 The need for confidentiality of settlement negotiations is without dispute. [T]he  
4 presumption of public access to settlement conferences, settlement proposals, and settlement  
5 conference statements is very low or nonexistent under either constitutional or common law  
6 principles. Weighed against this presumption is the strong public policy which encourages the  
7 settlement of cases through a negotiated compromise. . . . In a perfect world, the public would  
8 be kept abreast of all developments in the settlement discussions of lawsuits of public interest.  
9 In our world, such disclosure would . . . result in no settlement discussions and no settlements.  
10 United States v. Glens Falls Newspapers, Inc., 160 F.3d 853, 855–56 (2nd Cir.1998).  
11 Confidentiality of the mediation process encourages settlement. Id. at 858.

12 For these reasons, the Court shall order defendant Garcia’s confidential settlement  
13 conference statement to be filed under seal.

14 **IV. CONCLUSION**

15 Based on the foregoing, **IT IS HEREBY ORDERED** that the Clerk shall file under seal  
16 defendant Garcia’s confidential settlement conference statement, filed on June 10, 2022.

17  
18 IT IS SO ORDERED.

19 Dated: June 10, 2022

/s/ Gary S. Austin  
UNITED STATES MAGISTRATE JUDGE