

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

EMILY PESSANO, *individually and as  
guardian ad litem for her minor daughter  
Calliope Pessano-Maldonado,*

Plaintiff,

v.

BLUE CROSS OF CALIFORNIA,

Defendant.

Case No. 1:24-cv-01189-JLT-EPG

ORDER GRANTING MOTION TO SEAL, IN  
PART

(ECF No. 33)

This is an ERISA action, which seeks to compel Defendant Blue Cross of California to pay air ambulance transportation costs for Calliope Pessano-Maldonado under an insurance policy. The complaint, as amended, is brought by Emily Pessano on behalf of her minor daughter, Calliope Pessano-Maldonado.<sup>1</sup>

Now before the Court is Plaintiffs' motion to seal a settlement agreement with a third-party (REACH) and unredacted versions of supplemental filings in support of Plaintiff's petition for approval of minor's compromise. (ECF No. 33). For the reasons given below, the Court will grant the motion to seal, in part.

**I. MOTION TO SEAL**

In addition to the settlement agreement reached with Defendant, Plaintiffs reached a second settlement agreement to pay the outstanding bill of non-party REACH, which provided air ambulance services in connection with the allegations in the complaint. Plaintiffs seek to seal this

<sup>1</sup> Although only a minor's initials would typically be used under Federal Rule of Civil Procedure 5.2(a)(3), Plaintiff has waived such redaction protection under Rule 5.2(h). (ECF No. 14).

1 agreement with REACH. Additionally, Plaintiffs ask to seal unredacted versions of supplemental  
2 filings in support of Plaintiffs' petition for approval of minor's compromise, which filings reveal  
3 the settlement information relating to REACH and the settlement amount reached with  
4 Defendant, which the Court has already determined should be sealed. (ECF No. 29). Lastly, as  
5 part of the request to seal, Plaintiffs state that the amount of attorney fees paid by Plaintiffs  
6 should be sealed as the amount of the fees is equal to the settlement amount with Defendant  
7 minus the amount owed to REACH—meaning, that the confidential settlement amount with  
8 REACH could otherwise be determined by subtracting the amount of the attorney fees request (if  
9 not redacted) from the amount of the settlement agreement with Defendant. (ECF No. 33-1, p. 3).

10 Plaintiffs' motion to seal represents that Defendant has no opposition to the motion:  
11 "Counsel for Anthem has communicated its non-opposition to this request without disclosure of  
12 the confidential information to Anthem." (*Id.* at 2). The motion is supported by the declaration of  
13 Plaintiffs' counsel and a redacted copy of the settlement agreement with REACH. (ECF No. 32).

14 "Historically, courts have recognized a 'general right to inspect and copy public records  
15 and documents, including judicial records and documents.'" *Kamakana v. City & Cnty. of*  
16 *Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (quoting *Nixon v. Warner Commc 'ns, Inc.*, 435  
17 U.S. 589, 597 & n.7 (1978)); *see also* Local Rule 141(a) ("Documents may be sealed only by  
18 written order of the Court, upon the showing required by applicable law."). Unless a court record  
19 is "traditionally kept secret,"<sup>2</sup> a strong presumption in favor of access is the starting point."  
20 *Kamakana*, 447 F.3d at 1178 (quotation marks and citation omitted). In order to overcome this  
21 strong presumption, a party seeking to seal a judicial record bears the burden of articulating  
22 compelling reasons, which are supported by specific facts, that outweigh the historical right of  
23 access and the public policies favoring disclosure. *Id.* at 1178–79; *see M.P. ex rel. Provins v.*  
24 *Lowe's Companies, Inc.*, No. 2:11-CV-01985-GEB, 2012 WL 1574801, at \*1 (E.D. Cal. May 3,  
25 2012) (applying compelling reasons standard to request to seal documents in connection with  
26 application for approval of minor's settlement).

27 The Court must "conscientiously balance[] the competing interests of the public and the

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28 <sup>2</sup> "Thus far, we have identified two types of documents as 'traditionally kept secret': grand jury transcripts  
and warrant materials during the pre-indictment phase of an investigation." *Kamakana*, 447 F.3d at 1185.

1 party” seeking to seal the judicial record. *Kamakana*, 447 F.3d at 1179 (quotation marks citation  
2 omitted). And “[a]fter considering these interests, if the court decides to seal certain judicial  
3 records, it must base its decision on a compelling reason and articulate the factual basis for its  
4 ruling, without relying on hypothesis or conjecture.” *Id.*

5 The determination as to what is a “compelling reason” is within the Court’s “sound  
6 discretion.” *Center for Auto Safety v. Chrysler Group, LLC*, 809 F.3d 1092, 1097 (9th Cir. 2016)  
7 (citation omitted). Examples of compelling reasons include where a record might “become a  
8 vehicle for improper purposes,” such as to “gratify private spite, promote public scandal, circulate  
9 libelous statements, or release trade secrets.” *Kamakana*, 447 F.3d at 1179. However, “the mere  
10 fact that the production of records may lead to a litigant’s embarrassment, incrimination, or  
11 exposure to further litigation will not, without more, compel the court to seal its records.” *Id.*

12 Relevant here, Plaintiffs seek to seal the settlement agreement based on privacy concerns.

13 Plaintiffs have a legitimate and cognizable interest in being free from unwanted  
14 annoyance, harassment, and potential contact concerning not only the amount of  
15 money she will receive from Anthem in settlement of the instant action, but also  
16 the amount of money she will have to pay REACH and her attorneys out of those  
17 settlement proceeds distributed by Anthem. While it is in the Court’s interest to  
receive that information for purposes of protecting plaintiff Calliope Pessano-  
Maldonado, a court order protecting the confidentiality of the same information  
from the public also protects Plaintiffs from those who might gain access to the  
Court’s public record regarding this case.

18 (ECF No. 33-1, p. 6). The Court notes that Plaintiffs also seek to seal their supplemental filings,  
19 that, in addition to revealing the settlement amount with REACH, also reveal the settlement  
20 amount with Defendant, which the Court has already ordered to be sealed in this case. (ECF No.  
21 29).

22 The Court agrees with Plaintiffs, and other courts, that the amount a minor plaintiff  
23 receives in a settlement can be a compelling reason in a case to seal information, so as to avoid  
24 the minor being subjected to unwanted attention based on the amount they received. *See, e.g.,*  
25 *Huff v. Thousandshores, Inc.*, No. 21-CV-02173-HSG, 2022 WL 547109, at \*3 (N.D. Cal. Jan. 5,  
26 2022) (agreeing to seal amount a minor would receive under settlement to avoid third parties from  
27 targeting or soliciting the minor when they are old enough to control funds). Accordingly, it finds  
28 compelling reasons to seal the settlement amount with REACH, which information could be used

1 to glean the amount of Plaintiffs' settlement, and the Court will not require the parties to publicly  
2 disclose the settlement amount. *Medina v. Cnty. of Monterey*, No. 24-CV-00053-BLF, 2024 WL  
3 2112890, at \*2 (N.D. Cal. Apr. 16, 2024) ("Under the circumstances of this case, the Court finds  
4 compelling reasons to seal the settlement amounts based on the redactions proposed by Plaintiffs  
5 because the settlement amounts are highly sensitive and sealing them will protect the interests of  
6 the parties, especially the minor plaintiff.").

7 However, Plaintiffs have provided no justification to seal the other terms of the settlement  
8 agreement with REACH. Generally, they argue that the agreement should be sealed as to all terms  
9 because "confidentiality was a bargained for contractual term of the settlement between Plaintiffs  
10 and REACH." (ECF No. 33-1, p. 5). However, this is by itself an insufficient reason to seal the  
11 entire agreement. *See Huff v. Thousandshores, Inc.*, No. 21-CV-02173-HSG, 2021 WL 6621065,  
12 at \*2 (N.D. Cal. Dec. 1, 2021) (noting that "the parties' preference that their settlement remain  
13 confidential does not outweigh the [public's interest in disclosure]"); *Medina v. Cnty. of*  
14 *Monterey*, No. 24-CV-00053-BLF, 2024 WL 2112890, at \*2 (N.D. Cal. Apr. 16, 2024) ("The  
15 Court first notes that the fact that the parties have agreed to keep information confidential is not a  
16 compelling reason to seal court records."). Moreover, the terms other than the settlement amount,  
17 which the Court has reviewed in an unredacted version of the agreement, reveal only standard  
18 contract terms, like the timing of payment, rather than information like trade secrets. Thus, the  
19 Court finds no potential prejudice to REACH or Plaintiffs from the disclosure of these additional  
20 terms of their agreement.

21 Because the Court concludes that Plaintiffs have provided compelling reasons to seal only  
22 the settlement amount with non-party REACH (and the already-sealed settlement amount with  
23 Defendant) the Court will direct Plaintiffs to file sealed versions of the documents at issue as  
24 specified below.<sup>3</sup>

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27 <sup>3</sup> Because disclosure of attorney fees would, at this juncture, reveal the settlement amount with REACH,  
28 the Court will permit this information to remain redacted for now. However, the Court may revisit this  
issue in the future, especially if revelation of the amount of attorney fees would no longer reveal the  
settlement amount with REACH.

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