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UNITED STATES DISTRICT COURT

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FOR THE EASTERN DISTRICT OF CALIFORNIA

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TRUTHOUT,

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NO. CIV. S-12-2601 LKK/CKD

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Plaintiff,

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v.

O R D E R

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DEPARTMENT OF JUSTICE,

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Defendant.

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The court is in receipt of plaintiff Truthout's Emergency

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Motion to Seal Three Docket Entries. (ECF No. 28.) On September 11,

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2013, defendant U.S. Department of Justice filed a statement of

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non-opposition to this motion. (ECF No. 29.) Plaintiff seeks the

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redaction of its client's privacy waiver and the sealing of its

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client's FBI file, both filed by defendant in support of the

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latter's summary judgment motion. (Hardy Decl. Exhs. C, Y, ECF

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Nos. 27-2 at 66, 27-3, 27-4.)

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Due to the sensitive nature of the information in these

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documents, the court has ordered the Clerk of the Court to

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provisionally redact Exhibit C and seal Exhibit Y.

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Nevertheless, the court must safeguard the "general right to

1 inspect and copy public records and documents, including judicial
2 records and documents." Nixon v. Warner Commc'ns, Inc., 435 U.S.
3 589, 597 (1978). "Unless a particular court record is one
4 'traditionally kept secret,' a 'strong presumption in favor of
5 access' is the starting point." Kamakana v. City and Cnty. of
6 Honolulu, 447 F.3d 1172, 1178 (9th Cir. 2006) (quoting Foltz v.
7 State Farm Mut. Auto. Ins. Co., 331 F.3d 1122, 1135 (9th Cir.
8 2003)). In order to overcome this strong presumption, a party
9 seeking to seal a judicial record must articulate justifications
10 for sealing that outweigh the historical right of access and the
11 public policies favoring disclosure. See id. at 1178-79.

12 As the Ninth Circuit has made clear, "the resolution of a
13 dispute on the merits, whether by trial or summary judgment, is at
14 the heart of the interest in ensuring the 'public's understanding
15 of the judicial process and of significant public events.'" Kamakana,
16 447 F.3d at 1179 (quoting Valley Broad. Co. v. U.S. Dist.
17 Court for Dist. of Nev., 798 F.2d 1289, 1294 (9th Cir. 1986)).
18 Accordingly, a party seeking to seal a judicial record attached to
19 a dispositive motion must articulate "compelling reasons" in favor
20 of sealing. See id. at 1178. "In general, 'compelling
21 reasons' . . . exist when such 'court files might have become a
22 vehicle for improper purposes,' such as the use of records to
23 gratify private spite, promote public scandal, circulate libelous
24 statements, or release trade secrets." Id. (citing Nixon, 435 U.S.
25 at 598).

26 Under the "compelling reasons" standard, a district court must

1 weigh "relevant factors," base its decision "on a compelling
2 reason," and "articulate the factual basis for its ruling, without
3 relying on hypothesis or conjecture." Pintos v. Pac. Creditors
4 Ass'n, 605 F.3d 665, 679 (9th Cir. 2010) (quoting Hagestad v.
5 Tragesser, 49 F.3d 1430, 1434 (9th Cir. 1995)).


6 In light of the foregoing, the court hereby orders as follows:

7 [1] Plaintiff is DIRECTED to file a brief in support of the
8 requested redaction and sealing no later than October 14,
9 2013. In its brief, in addition to setting forth the
10 "compelling reasons" for its motion, plaintiff is to address
11 the issue of why sealing, rather than selective redaction, of
12 Exhibit Y is necessary. Plaintiff's brief may be no longer
13 than twenty (20) pages in length.

14 [2] The Clerk of the Court is DIRECTED to maintain ECF
15 No. 27-2 at 66 in redacted form and ECF Nos. 27-3 and 27-4
16 under seal until such time as the court orders otherwise.

17 IT IS SO ORDERED.

18 DATED: September 11, 2013.

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22 LAWRENCE K. KARLTON
23 SENIOR JUDGE
24 UNITED STATES DISTRICT COURT
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