

1
2
3
4 IN THE UNITED STATES DISTRICT COURT
5 FOR THE NORTHERN DISTRICT OF CALIFORNIA
6

7 VANDANA UPADHYAY, an individual,

Case No. C 13-01368 SI

8 Plaintiff,

**ORDER DENYING WITHOUT
PREJUDICE JOINT MOTION TO SEAL**

9 v.

10 AETNA LIFE INSURANCE COMPANY, a
11 Connecticut corporation,

12 Defendant.
_____ /

13
14 On November 1, 2013, defendant Aetna Life Insurance Company (“Aetna”) filed a motion for
15 summary judgment. Docket No. 21. By the present joint motion, the parties move to file under seal a
16 confidential settlement agreement filed in support of Aetna’s motion for summary judgment and
17 portions of the motion that refer to the settlement agreement. Docket No. 20. The parties argue that the
18 settlement agreement should be filed under seal in light of the public policy favoring private settlements
19 and because settlement agreements are within the category of documents that fall outside of the public’s
20 right of access. *Id.* at 5-6.

21 With the exception of a narrow range of documents that are “traditionally kept secret,” courts
22 begin their sealing analysis with “a strong presumption in favor of access.” *Foltz v. State Farm Mut.*
23 *Auto. Ins.*, 331 F.3d 1122, 1135 (9th Cir. 2003). When applying to file documents under seal in
24 connection with a dispositive motion, the submitting party bears the burden of “articulating compelling
25 reasons supported by specific factual findings that outweigh the general history of access and the public
26 policies favoring disclosure, such as the public interest in understanding the judicial process.”
27 *Kamakana v. City and County of Honolulu*, 447 F.3d 1172, 1178-79 (9th Cir. 2006) (internal quotations
28 and citations omitted). However, when a party seeks to seal documents attached to a non-dispositive

1 motion, a showing of “good cause” under Federal Rule of Civil Procedure 26(c) is sufficient. *Id.* at
2 1179-80; *see also* Fed. R. Civ. P. 26(c). In addition, all requests to file under seal must be “narrowly
3 tailored,” such that only sealable information is sought to be redacted from public access. Civil Local
4 Rule 79-5(b). Because the parties’ request to seal relates to a dispositive motion for summary judgment,
5 the compelling reasons standard applies.

6 Courts typically find good cause and “grant[] protective orders to protect confidential settlement
7 agreements.” *See Phillips v. GMC*, 307 F.3d 1206, 1212 (9th Cir. 2002); *see also Kalinauskas v. Wong*,
8 151 F.R.D. 363, 365 (D. Nev. 1993) (“Confidential settlements benefit society and the parties involved
9 by resolving disputes relatively quickly, with slight judicial intervention, and presumably result in
10 greater satisfaction to the parties. Sound judicial policy fosters and protects this form of alternative
11 dispute resolution.”). However, a party seeking to file a confidential settlement agreement under seal
12 in connection with a dispositive motion must still meet its burden of satisfying the compelling reasons
13 test. *Luo v. Zynga Inc.*, 2013 U.S. Dist. LEXIS 155144, at *8 (N.D. Cal. Oct. 29, 2013). The existence
14 of a confidentiality provision, without more, does not constitute a compelling reason to seal the
15 agreement. *Id.*; *see, e.g., Gamble v. Arpaio*, 2013 U.S. Dist. LEXIS 4576, at *14-15 (D. Ariz. Jan. 11,
16 2013) (denying motion to seal confidential settlement agreement where the movant failed to “discuss,
17 much less establish, the compelling reasons standard”).

18 In the motion, the parties argue that the settlement agreement should be sealed in light of the
19 public policy favoring private settlements. Docket No. 20 at 5. The Court recognizes the public policy
20 favoring private settlements, *see Kalinauskas*, 151 F.R.D. at 365, but that is an insufficient reason, by
21 itself, to seal the agreement. In moving to seal the settlement agreement, the parties must still meet their
22 burden of satisfying the compelling reasons test. *See Luo*, 2013 U.S. Dist. LEXIS 155144, at *8. The
23 parties state that the settlement agreement contains plaintiff’s personal information and the proprietary
24 and private business information of a non-party, but the parties fail to identify in the motion or the
25 accompanying declaration the portions of the settlement agreement that contain this information. *See*
26 *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1137 (9th Cir. 2003) (criticizing the party’s
27 “failure to identify where in the documents confidential financial information and trade secrets are to
28 be found”). Moreover, even assuming that the settlement agreement contains some sealable personal

1 or proprietary information, that would only be reason to seal certain portions of the agreement, not the
2 entire document and all references to it.

3 Accordingly, the Court DENIES the parties' administrative motion to seal. Docket No. 20. This
4 denial is without prejudice to the parties refiling the motion, no later than **November 22, 2013**, in a
5 format which is narrowly tailored and demonstrates "compelling reasons supported by specific factual
6 findings that outweigh the general history of access and the public policies favoring disclosure, such as
7 the public interest in understanding the judicial process." *Kamakana*, 447 F.3d at 1178-79.

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IT IS SO ORDERED.

Dated: November 8, 2013



SUSAN ILLSTON
United States District Judge