

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

United States District Court  
Northern District of California

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

RICHARD DENT, et al.,  
Plaintiffs,

No. C 14-02324 WHA

v.

NATIONAL FOOTBALL LEAGUE,  
Defendant.

**ORDER RE MOTIONS TO FILE  
UNDER SEAL, DKT. NOS. 169, 174**

---

Plaintiffs and defendant have moved to file under seal exhibits submitted in connection with plaintiffs’ motion for class certification and corresponding portions of their briefs referring to the exhibits.

The public has “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 (1978). “This right is justified by the interest of citizens in keeping a watchful eye on the workings of public agencies.” *Kamakana v. City and Cnty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (citation omitted).

“Unless a particular court record is one traditionally kept secret, a strong presumption in favor of access is the starting point. A party seeking to seal a judicial record then bears the burden of overcoming this strong presumption by meeting the ‘compelling reasons’ standard. That is, the party must articulate compelling reasons supported by specific factual findings, that outweigh the general history of access and the public policies favoring disclosure, such as

1 the public interest in understanding the judicial process. In turn, the court must conscientiously  
2 balance the competing interests of the public and the party who seeks to keep certain judicial  
3 records secret.” *Id.* at 1178–79 (cleaned up).

4 “What constitutes a compelling reason is best left to the sound discretion of the trial  
5 court. Examples include when a court record might be used to gratify private spite or promote  
6 public scandal, to circulate libelous statements, or as sources of business information that  
7 might harm a litigant’s competitive standing.” *Ctr. for Auto Safety v. Chrysler Group, LLC*,  
8 809 F.3d 1092, 1097 (9th Cir. 2016) (citations omitted).

9 The compelling reasons standard applies to sealing of documents relating to class  
10 certification because “the motion at issue is more than tangentially related to the underlying  
11 cause of action.” *Ctr. for Auto Safety*, 809 F.3d at 1099.

12 Requests to seal “must be narrowly tailored to seek sealing only of sealable material, and  
13 must conform with Civil L.R. 79-5(d).” Civ. L.R. 79-5(b). “Reference to a stipulation or  
14 protective order that allows a party to designate certain documents as confidential is not  
15 sufficient to establish that a document, or portions thereof, are sealable.” Civ. L.R. 79-  
16 5(d)(1)(A).

17 **1. DKT. NO. 169.**

18 Plaintiffs have moved to file under seal the entirety of dozens of exhibits filed in support  
19 of their motion for class certification and portions of their brief referencing the exhibits  
20 because the NFL designated the exhibits confidential under the stipulated protective order in  
21 this case. Reference to a stipulated protective order is insufficient to establish that the  
22 documents are sealable. Civ. L.R. 79-5(d)(1)(A). The NFL has not filed a declaration in  
23 support of sealing.

24 Therefore, the motion is **DENIED**.

25 **2. DKT. NO. 174.**

26 Plaintiffs seek to maintain under seal the entirety of nearly every exhibit submitted by the  
27 NFL in opposition to the motion for class certification on the grounds that the exhibits contain  
28

1 (1) plaintiffs' health information, (2) other players' health information, and (3) plaintiffs'  
2 financial information.

3 *First*, plaintiffs vaguely refer to the Health Insurance Portability and Accountability Act  
4 of 1996, Pub. L. No. 104-191, 110 Stat. 1936 (1996), in support of their request to seal  
5 references to players' health information. HIPAA, however, does not protect against the  
6 disclosure of health information by the district court because the district court is not a health  
7 plan, a health care clearinghouse, or a health care provider. 45 C.F.R. § 164.104.

8 *Second*, the motion is deniable on the ground that plaintiffs have failed to comply with  
9 the requirement that the request be narrowly tailored to seek sealing only of sealable material.  
10 Civ. L.R. 79-5(b). The requests are wildly overbroad because only small portions of the  
11 exhibits contain individually identifiable health information, but plaintiffs have requested to  
12 seal the entirety of the exhibits.

13 This order finds as follows. The request to seal plaintiffs' health information is **DENIED**  
14 because this matter goes to the heart of this case, is necessary for the public to understand the  
15 case, and plaintiffs have not articulated a compelling reason to overcome the strong  
16 presumption in favor of public access.

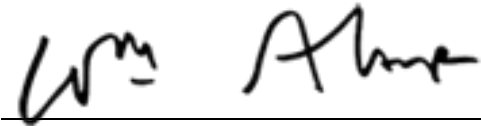
17 Plaintiffs also move to seal the entirety of nearly every exhibit to the NFL's opposition  
18 which were produced in the related action *Evans, et al., v. Arizona Cardinals Football Club,*  
19 *LLC, et al.*, No. C 16-01030 WHA (N.D. Cal. 2016), and which the parties agreed could be  
20 used in this action. These exhibits are the *Evans* plaintiffs' deposition transcripts and workers'  
21 compensation documents filed by the clubs in that action in connection with the various  
22 motions to dismiss and summary judgment. Thus, much of this information is already public.  
23 *See* Block Decl., *Evans, et al. v. Arizona Cardinals Football Club, LLC*, No. C 16-01030  
24 WHA (ECF No. 213) (N.D. Cal. Mar. 3, 2017). Moreover, the *Evans* plaintiffs' experiences  
25 receiving medical care and drugs from their clubs is closely related to the merits of the  
26 underlying action since they are putative class members. Plaintiffs have provided no  
27 compelling reason that this information warrants sealing. Therefore, the motion to seal the  
28 *Evans* plaintiffs' health information is **DENIED**.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Finally, plaintiffs seek to seal information about their personal finances, such as “workers’ compensation claims and benefits, disability claims and benefits, retirement claims and benefits, and information relating to settlements of such claims” (Dkt. No. 180 ¶ 10). Plaintiffs assert this information warrants sealing because plaintiffs “are of old age and overall poor health, leaving them particularly vulnerable to being taken advantage of.” This order rejects the speculative assertion that simply because a person has applied for and received workers’ compensation or disability benefits he becomes more vulnerable to unspecified financial scams. Redactions of only the dollar amounts awarded would be narrowly tailored toward serving plaintiffs’ interest in security in this regard. Therefore, plaintiffs must file public versions of the exhibits and defendant’s brief with redactions limited to the dollar amounts awarded, nothing more. Otherwise, the motion to seal references to plaintiffs’ workers’ compensation and disability claims is **DENIED**.

**IT IS SO ORDERED.**

Dated: August 31, 2021



---

WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE