

1                                    IN THE UNITED STATES DISTRICT COURT  
2                                    FOR THE NORTHERN DISTRICT OF CALIFORNIA

3  
4 TODD ASHKER, et al.,

No. C 09-5796 CW

5                                    Plaintiffs,

ORDER GRANTING  
PLAINTIFFS'  
RENEWED MOTION TO  
SEAL (Docket No.  
215)

6                                    v.

7 GOVERNOR OF THE STATE OF  
CALIFORNIA, et al.,

8                                    Defendants.

9 \_\_\_\_\_/

10                                   On May 28, 2013, Plaintiffs filed a renewed motion to seal  
11 portions of Dr. Terry Kupers' declaration in support of their  
12 motion for class certification. Defendants oppose the motion.  
13 After reviewing the sections of Kupers' declaration that  
14 Plaintiffs seek to seal, the Court grants Plaintiffs' motion.

15                                   Because the public interest favors filing all court documents  
16 in the public record, any party seeking to file a document under  
17 seal must demonstrate good cause to do so. Pintos v. Pac.  
18 Creditors Ass'n, 605 F.3d 665, 678 (9th Cir. 2010). This cannot  
19 be established simply by showing that the document is subject to a  
20 protective order or by stating in general terms that the material  
21 is considered to be confidential, but rather must be supported by  
22 a sworn declaration demonstrating with particularity the need to  
23 file each document under seal. See Civil Local Rule 79-5(a).

24                                   Plaintiffs in this case seek to seal portions of Kupers'  
25 declaration that contain information about their mental and  
26 physical health that they shared with a psychiatrist during  
27 private interviews. Because this information is sensitive and has  
28 not been previously disclosed, Plaintiffs have established good

1 cause for sealing these portions of the declaration. See Vietnam  
2 Veterans of Am. v. Central Intelligence Agency, 2012 WL 1094360,  
3 at \*1-\*2 (N.D. Cal.) (granting a motion to seal the "past,  
4 present, or future physical or mental health or condition of  
5 persons not specifically made public in the Complaint").

6 Defendants argue that this information is not sealable  
7 because it broadly resembles certain allegations in the complaint.  
8 They contend, "That an allegation made publicly about one  
9 Plaintiff in the Second Amended Complaint is now made about a  
10 different Plaintiff through an expert's declaration does not  
11 explain why the statement is sealable in one instance but not in  
12 the other." Defs.' Opp. 3 (citations omitted).<sup>1</sup> This argument is  
13 not persuasive. One Plaintiff's willingness to disclose sensitive  
14 information about his health does not automatically render  
15 sensitive information about another Plaintiff's health public.

16 Thus, having found good cause to seal the redacted portions  
17 of Kupers' declaration, the Court GRANTS Plaintiffs' motion to  
18 seal (Docket No. 215).

19 IT IS SO ORDERED.

20  
21 Dated: 6/4/2013

  
CLAUDIA WILKEN  
United States District Judge

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26 <sup>1</sup> In raising this argument, Defendants come very close to  
27 disclosing sensitive information about one Plaintiff's health, which  
28 Plaintiffs specifically sought to seal. Although they stop just short  
of that point here, Defendants are warned that they may not publicly  
disclose any information -- whether through explicit or implicit  
means -- that is the subject of a pending sealing motion.