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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

ELENA FLORES and ANTONIA  
FLORES as Guardian Ad Litem for  
McKENZIE FLORES POWELL, a minor,  
  
Plaintiffs,  
  
v.  
  
AMLYN PHARMACEUTICALS, INC;  
ELI LILLY AND COMPANY,  
  
Defendants.

Civil No. 08cv1652 L(CAB)  
  
**ORDER DENYING WITHOUT  
PREJUDICE JOINT MOTION FOR  
LEAVE TO FILE UNDER SEAL  
THE UNOPPOSED APPLICATION  
FOR APPROVAL OF MINOR  
SETTLEMENT [doc. #47]**

The parties jointly move for leave to file under seal their unopposed application for approval of minor settlement. Attached to their unopposed application are the declaration of G. Kevin Buchanan, declaration of Antonia Flores, and a proposed order and judgment apportioning settlement proceeds. As justification for the filing of these documents under seal, the parties state: "As an integral part of the settlement, the parties agreed to keep the settlement confidential, including but not limited to the settlement amount, to protect the interests of all parties." (Joint Motion at2.)

The request to seal the full application for approval of minor settlement implicates the "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 & n. 7 (1978), and the lack of opposition does not automatically resolve it. *See Foltz v. State Farm Mut. Auto Ins. Co.*, 331

1 F.3d 1128, 1130 & *passim* (9th Cir. 2003) (stipulated order without more insufficient basis to  
2 seal court records). Based on the “strong presumption of access to judicial records,” the party  
3 or parties requesting to seal a judicial record pertaining to dispositive motions and trials bears  
4 the burden of overcoming the presumption by meeting the “compelling reasons” standard.  
5 *Kamakana v. City and County of Honolulu*, 447 F.3d 1172, 1179 (9th Cir. 2006); *Pintos v. Pac.*  
6 *Creditors Ass’n*, 565 F.3d 1106, 1115 (9th Cir. 2009) (sealing a judicial record requires the  
7 requesting party to show compelling reasons which outweigh the general history of access and  
8 the public policies favoring disclosure).

9 Here, the parties fail to identify a compelling reason upon which the above-referenced  
10 documents may be filed under seal. They have not attempted to make a showing of specific  
11 prejudice or harm, and have not articulated their reasoning to support their request for sealing.  
12 For example, the parties have not shown that, if such documents were disclosed to the public, a  
13 likelihood exists that they will be used improperly. *See e.g., Valley Broadcasting Co. v. U.S.*  
14 *District Court*, 789 F.2d 1289 (9th Cir. 1996) (recognizing “strong presumption in support of the  
15 common law right to inspect and copy judicial records”; noting considerations “[c]ounseling  
16 against such access would be the likelihood of an improper use, including publication of  
17 scandalous, libelous, pornographic, or trade secret materials; infringement of fair trial rights of  
18 the defendants or third persons; and residual privacy rights”) (internal quotation and citation  
19 omitted). The United States Supreme Court has noted that “the right to inspect and copy judicial  
20 records is not absolute,” and certain documents may properly be excluded from public access.  
21 *Nixon v. Warner Communications* 435 U.S. 589, 598 (1978) (the court may insure its records are  
22 not “used to gratify private spite or promote public scandal,” and do not “serve as reservoirs of  
23 libelous statements” or “as sources of business information that might harm a litigant's  
24 competitive standing”) (internal quotation and citation omitted).

25 Further, the parties have not demonstrated that the entirety of each of the above-  
26 referenced documents is confidential. A party may not designate an entire document as  
27 confidential when only portions of the document contain confidential information. Should the  
28 parties again request the sealing of any document(s), they must designate specific portions based

1 on the appropriate showing.

2 For the foregoing reasons, the parties' joint motion for leave to file under seal their  
3 unopposed application for approval of minor settlement is **DENIED without prejudice.**

4 **IT IS SO ORDERED.**

5 DATED: July 15, 2010

6   
7 M. James Lorenz  
8 United States District Court Judge

9 COPY TO:

10 HON. CATHY ANN BENCIVENGO  
11 UNITED STATES MAGISTRATE JUDGE

12 ALL PARTIES/COUNSEL