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6 **UNITED STATES DISTRICT COURT**  
7 **SOUTHERN DISTRICT OF CALIFORNIA**  
8

9 GARY ATKINS,

10 Plaintiff,

11 v.  
12

13 RAYMOND E. MABUS, SECRETARY  
14 OF THE NAVY

15 Defendant.  
16

Case No.: 12-cv-1390-GPC-WVG

**ORDER GRANTING JOINT  
MOTION TO PERMIT FILING  
UNDER SEAL**

[Dkt. No. 21.]

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18 On February 20, 2014, the parties to this action jointly requested that they be  
19 permitted to file certain documents in support of and in opposition to Defendant's  
20 summary judgment motion under seal. (Dkt. No. 21.) Defendant has lodged two  
21 proposed sealed documents on the docket. (Dkt. No. 23.) For the reasons set forth below,  
22 the Court finds that compelling reasons support the Parties' request and **GRANTS** the  
23 joint motion. (Dkt. No. 21.)

24 There is a presumptive right of public access to court records based upon common  
25 law and First Amendment grounds. See Nixon v. Warner Comm., Inc., 435 U.S. 589,  
26 597 (1978); Phillips ex rel. Estates of Byrd v. General Motors Corp., 307 F.3d 1206,  
27 1212 (9th Cir. 2002). "Historically, courts have recognized a general right to inspect and  
28 copy public records and documents, including judicial records and documents." See

1 Kamakana v. City & Cnty. of Honolulu, 447 F.3d 1172, 1178 (9th Cir. 2006) (internal  
2 quotation marks and citation omitted). However, if the parties can satisfy the  
3 “compelling reason” standard outlined by the Ninth Circuit in Kamakana, the Court may  
4 seal records to protect sensitive personal or confidential information. The need to protect  
5 medical privacy has qualified as a “compelling reason” for sealing records in connection  
6 with a dispositive motion. See, e.g., San Ramon Regional Med. Ctr., Inc. v. Principal Life  
7 Ins. Co., 2011 U.S. Dist. LEXIS 4100, 2011 WL89931, at \*n.1 (N.D. Cal. Jan. 10, 2011);  
8 Wilkins v. Ahern, 2010 U.S. Dist. LEXIS 110927, 2010 WL3755654 (N.D. Cal. Sept. 24,  
9 2010); Lombardi v. TriWest Healthcare Alliance Corp., 2009 U.S. Dist. LEXIS 41693,  
10 2009 WL 1212170, at \* 1 (D.Ariz. May 4, 2009).

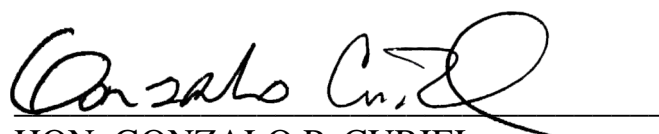
11 In this case, the parties request an order allowing them to file under seal documents  
12 and testimony which identify the “serious medical condition” referenced in Plaintiff’s  
13 First Amended Complaint. (Dkt. No. 10 at 2:13.) This is an action pursuant to the  
14 Privacy Act of 1974 in which Plaintiff alleges that the Naval Medical Center San Diego  
15 failed to safeguard his medical records, and in doing so violated the Privacy Act.  
16 Plaintiff alleges that his coworkers and supervisors became aware of his serious medical  
17 condition and used it against him in performance evaluations. Plaintiff seeks to keep the  
18 nature of his diagnosis private.

19 Pursuant to the above authority, the Court finds there is a “compelling reason” to  
20 seal documents identifying the nature of Plaintiff’s diagnosis. The Court **GRANTS** the  
21 joint motion.

22 Accordingly, the Court hereby **ORDERS**: The Clerk of Court shall FILE UNDER  
23 SEAL the excerpts of the Deposition of Gary Atkins and the Declaration of Gary Atkins,  
24 filed by Defendant and currently lodged as proposed sealed documents at (Dkt. No. 23).

25 **IT IS SO ORDERED.**

26 DATED: June 3, 2014

27   
28 HON. GONZALO P. CURIEL  
United States District Judge