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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 WILLIAMS & COCHRANE, LLP,
12 Plaintiff,

13 v.

14 QUECHAN TRIBE OF THE FORT
15 YUMA INDIAN RESERVATION, a
16 federally-recognized Indian Tribe;
17 ROBERT ROSETTE; ROSETTE &
18 ASSOCIATES, PC; ROSETTLE, LLP;
19 RICHARD ARMSTRONG; KEENY
20 ESCALANTI, SR.; MARK WILLIAM
21 WHITE, II, also known as WILLIE
22 WHITE; and DOES 1 THROUGH 10,
23 Defendants.

Case No.: 3:17-cv-01436-GPC-MDD

**ORDER GRANTING MOTION TO
FILE DOCUMENTS UNDER SEAL**

[ECF No. 6]

22 Before the Court is Plaintiff's *ex parte* motion to seal select portions of its
23 complaint and certain exhibits attached to the complaint. (ECF No. 6.) The Court denied
24 a previous motion by Plaintiff to seal this case and the complaint. (*See* ECF No. 3.) For
25 the reasons explained below, the Court now GRANTS Plaintiff's motion to file its
26 complaint with redactions, and ACCEPTS the complaint filed at ECF No. 5.

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1 **I. Background**

2 Plaintiff first filed this action on July 16, 2017. (ECF No. 1.) The case arises out
3 of an attorney-client fee agreement that Plaintiff entered into with Defendant Quechan
4 Tribe of the Fort Yuma Indian Reservation (“the Tribe”). (ECF No. 3 at 2.) Plaintiff’s
5 claims arise from the Tribe allegedly terminating Plaintiff as the Tribe’s counsel three
6 days prior to the date on which the Tribe was set to sign a compact with the State of
7 California. (*Id.*) Plaintiff moved to file the case and the complaint under seal. (ECF No.
8 2.) The court denied the motion on August 17, 2017, explaining that sealing the case and
9 or the entire complaint was unwarranted. (ECF No. 3.) While the Court agreed that it
10 was appropriate to seal privileged attorney-client information, attorney work-product, and
11 confidential information about the Tribe’s negotiations with the State of California, it was
12 not persuaded that the existence of such information within the complaint warranted
13 sealing the entire complaint, let alone the case. (*Id.* at 4.) The Court explained that
14 “Plaintiff has offered no compelling reason why every paragraph in its 91-page complaint
15 and why each of its thirty-nine exhibits must be filed under seal.” (*Id.*) The Court
16 explained, however, that “to the extent that Plaintiff wishes to protect the confidential and
17 privileged information contained within the complaint, it must redact those portions of
18 the complaint (and those portions of the exhibits).” (*Id.*)

19 On September 19, 2017, Plaintiff refiled its complaint with several redactions.
20 (ECF No. 5.) Along with the complaint, Plaintiff has filed a motion to seal in which it
21 asks the Court to approve the redacted complaint as filed (ECF No. 6), and lodged with
22 the Court an unredacted version of the complaint (ECF No. 7). The Court finds that the
23 redactions are appropriate to prevent the disclosure of confidential attorney-client
24 communications, attorney work-product, and confidential negotiations between the Tribe
25 and the State of California.

26 **II. Legal Standard**

27 Under common law and the First Amendment, there is a presumptive right of
28 public access to court records. *See Nixon v. Warner Commc ’ns, Inc.*, 435 U.S. 589, 597

1 (1978). “Unless a particular court record is one traditionally kept secret, a strong
2 presumption in favor of access is the starting point.” *Kamakana v. City & Cty. of*
3 *Honolulu*, 447 F.3d 1172, 1178–80 (9th Cir. 2006) (citing *Foltz v. State Farm Mut. Auto.*
4 *Ins. Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003)). A party seeking to seal a judicial record
5 must articulate justifications that outweigh the historical right of access and the public
6 policies favoring disclosure. *Kamakana*, 447 F.3d at 1178–79.

7 Parties seeking to seal documents in a dispositive motion must meet the high
8 threshold requiring “compelling reasons” with specific factual findings to support a
9 sealing. *Id.* at 1178–80. However, for non-dispositive motions, the parties must show a
10 lesser “particularized showing” under the “good cause” standard pursuant to Federal Rule
11 of Civil Procedure 26(c). *Id.* at 1180. The “compelling reasons” test requires showing
12 more than just “good cause.” *Id.* Documents filed under seal will be limited to only
13 those documents, or portions thereof, necessary to protect such sensitive information.

14 Although the “Ninth Circuit has yet to specify whether a party seeking to seal a
15 complaint . . . must meet the ‘compelling reasons’ or ‘good cause’ standard,” *see Harrell*
16 *v. Cal. Forensic Med. Grp., Inc.*, No. 2:15-cv-00579-KJN-P, 2015 WL 1405567, *1 (E.D.
17 Cal. Mar. 26, 2015), district courts generally conclude that the “compelling reasons”
18 standard applies because the complaint initiates the civil action. *See, e.g., Robert Half*
19 *Int’l v. Ainsworth*, 2015 WL 4394805, *3 n.2 (S.D. Cal. July 15, 2015). The Court
20 agrees and applies the “compelling reasons” standard to Plaintiff’s request to redact
21 portions of its complaint.

22 **III. Discussion**

23 Plaintiff asserts that its redactions in the filed complaint are limited to confidential
24 information arising from confidential attorney-client communications, attorney work-
25 product, and confidential negotiations between the Tribe and the State of California.
26 After reviewing the voluminous complaint and its exhibits, the Court confirms that the
27 proposed redactions are limited to these three types of information.

28 The Court agrees with Plaintiff that protection against disclosure of these three

1 types of information is a compelling reason that rebuts the presumption of public access.
2 First, privileged attorney-client communications are considered “archetypical examples
3 material that has traditionally been kept secret for important policy reasons.” *Lambright*
4 *v. Ryan*, 698 F.3d 808, 820 (9th Cir. 2012). Because such information is one that has
5 “traditionally been kept secret for important policy reasons,” redacting such information
6 from the complaint is warranted. *Id.*; see also *Hanson v. Wells Fargo Home Mortg., Inc.*,
7 2013 WL 5674997, *3 (W.D. Wash. Oct. 17, 2013) (“Courts generally accept attorney-
8 client privilege and the work-product-doctrine as a ‘compelling reason’ justifying a
9 motion to seal.”).

10 Second, preventing the disclosure of attorney work-product is also a compelling
11 reason to prevent public access to such information. “The purpose of the work product
12 doctrine is to protect an attorney’s mental processes so that the attorney can analyze and
13 prepare for the client’s case without interference from an opponent.” 6 *Moore’s Fed.*
14 *Prac.*, Civil § 26.70(1). The Court follows the lead of other district courts in this circuit
15 who have found that preventing disclosure of work-product is a compelling reason to
16 restrict public access to court documents. See, e.g., *Hanson*, 2013 WL 5674997, at *3;
17 *Asdale v. Int’l Game Tech.*, No. 3:04-cv-703-RAM, 2010 WL 2161930, at *5 (D. Nev.
18 May 28, 2010).

19 Finally, Plaintiff asserts that preventing the disclosure of confidential negotiations
20 between the Tribe and the State of California is a compelling reason to restrict public
21 access to its complaint. The Court agrees. See *Kalinauskas v. Wong*, 151 F.R.D. 363,
22 365 (D. Nev. 1993) (“The secrecy of a settlement agreement and the contractual rights of
23 the parties thereunder deserve court protection.”). As indicated by the declaration
24 attached to Plaintiff’s motion to seal, the State of California had always maintained that
25 the negotiations between it and the Tribe were to be kept “strictly confidential.” (ECF
26 No. 6-1 at 2–3 ¶ 4.)

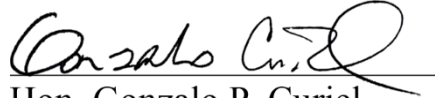
27 **IV. Conclusion**

28 The Court concludes that Plaintiff has offered sufficient reason to warrant its

1 proposed redactions to its complaint and attached exhibits. As a result, the Court
2 **GRANTS** Plaintiff's motion to seal and accepts Plaintiff's redacted amended complaint.
3 The Clerk of Court is respectfully requested to file, under seal, the lodged unredacted
4 copy of Plaintiff's amended complaint. (ECF No. 7.)

5 **IT IS SO ORDERED.**

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7 Dated: November 7, 2017

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9 Hon. Gonzalo P. Curiel
United States District Judge

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