

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

DENISE B. D'APRILE,

Plaintiff,

-vs-

Case No. 2:09-cv-270-FtM-36SPC

UNUM LIFE INSURANCE COMPANY OF
AMERICA,

Defendant.

ORDER

This matter comes before the Court on Plaintiff's Unopposed Motion to Seal Exhibit Six Filed in Support of Motion to Compel Discovery and To File Redacted Brief (Doc. #52) filed on June 16, 2010. The Plaintiff, Denise D'Aprile is requesting leave to file her Motion to Compel Discovery and Exhibit 6 to the Motion under seal. As grounds, Plaintiff states that Exhibit 6 is an internal company document intended for internal use only, and constitutes a "trade secret" under Paragraph 1 of this Court's April 1, 2010, Protective Order (Doc. #46).

The right of access to judicial records pursuant to the common law is well established. Microlumen, Inc. v. Allegrath, 2007 WL 1247068 *1 (M..D. Fla. April 30, 2007) (citing Nixon v. Warner Communications, Inc., 435 U. S. 589, 597, 98 S. Ct. 1306, 55 L. Ed. 2d 570 (1978)). This right to access, however, is not absolute. Microlumen, 2007 WL 1247068 at *1 (citing Globe Newspaper Co. v. Superior Court for Norfolk County, 457 U.S. 596, 598, 102 S. Ct. 2613, 73 L. Ed. 2d 248 (1982)). When deciding whether to grant a party's motion to seal, the court is required to balance the historical presumption of access against any competing interest. Microlumen, 2007 WL

1247068 at *1. A request to restrict access to pleadings and evidence filed with the court is subject to heightened scrutiny. Id.

As an initial matter, the Court notes that Plaintiff filed her Motion to Compel with Exhibits attached on June 16, 2010 (Doc. #51). That briefing includes the information she now requests the Court to seal. Nevertheless, since both parties consent to the sealing of the information and assert that the document and information to be sealed constitutes a “trade secret,” the Court will permit the Motion to Compel and Exhibit 6 to be re-filed by the Clerk under seal.

Accordingly, it is now

ORDERED:

- (1) Plaintiff’s Unopposed Motion to Seal Exhibit Six Filed in Support of Motion to Compel Discovery and To File Redacted Brief (Doc. #52) is **GRANTED**.
- (2) The Clerk is directed to re-file the Motion to Compel Discovery (Doc. # 51) and Exhibit 6 to the Motion under seal.
- (3) Plaintiff’s request to file a public and redacted version of her Motion to Compel Discovery is **GRANTED**. Plaintiff shall file a redacted copy of the Motion in the CM/ECF system by **June 23, 2010**.

DONE AND ORDERED at Fort Myers, Florida, this 18th day of June, 2010.


SHERI POLSTER CHAPPELL
UNITED STATES MAGISTRATE JUDGE

Copies: All Parties of Record