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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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Allstate Insurance Company; Allstate
Property & Casualty Insurance Company;
Allstate Indemnity Company; and Allstate
Fire & Casualty Insurance Company,

Plaintiffs,

v.

Marjorie Belsky, MD; Mario Tarquino, MD;
Marjorie Belsky, MD, Inc., doing business as
Integrated Pain Specialists; and Mario
Tarquino, MD, Inc.; et al.,

Defendants.

And related claims.

Case No. 2:15-cv-02265-MMD-DJA

Order

15 This is a fraud and conspiracy action arising out of Plaintiffs' allegations that
16 Defendants—doctors and their related businesses—had a procedure of inflating medical bills to
17 leverage artificially enhanced settlement values. Both Plaintiffs and Defendants move to seal
18 documents related to their summary judgment briefings. (ECF Nos. 545, 550). Because the
19 Court finds that Plaintiffs have demonstrated compelling reasons to seal, it grants their motion.
20 (ECF No. 545). Because the Court finds that Defendants have only demonstrated compelling
21 reasons to seal some of their exhibits, but not others, it grants in part and denies in part
22 Defendants' motion to seal. (ECF No. 550).

23 **I. Legal standard.**

24 A party seeking to file a confidential document under seal must file a motion to seal and
25 must comply with the Ninth Circuit's directives in *Kamakana v. City and County of Honolulu*,
26 447 F.3d 1172 (9th Cir. 2006) and *Ctr. for Auto Safety v. Chrysler Group, LLC*, 809 F.3d 1092
27 (9th Cir. 2016). A party seeking to seal judicial records attached to motions more than
28 tangentially related to the merits of the case must meet the "compelling reasons" standard. *See*

1 *Kamakana*, 447 F.3d at 1183; *Ctr. for Auto Safety*, 809 F.3d at 1101. For records attached to
2 motions not more than tangentially related to the merits of the case, the “good cause” standard
3 applies. *See Ctr. for Auto Safety*, 809 F.3d 1095, 1101.

4 Under the compelling reasons standard, a court may seal a record only if it finds
5 “compelling reasons” to support such treatment and articulates “the factual basis for its ruling,
6 without relying on hypothesis or conjecture.” *Ctr. for Auto Safety*, 809 F.3d at 1096-97.
7 Compelling reasons exist when such court files might have become a vehicle for improper
8 purposes, such as the use of records to gratify private spite, promote public scandal, circulate
9 libelous statements, or release trade secrets. *Id.* at 1097 (internal quotations and citations
10 omitted). The compelling reasons must be “supported by specific factual findings,” that outweigh
11 “the general history of access and the public policies favoring disclosure, such as the public
12 interest in understanding the judicial process.” *Kamakana*, 447 F.3d at 1178-79 (internal
13 quotations and citations omitted). The Ninth Circuit has rejected efforts to seal documents under
14 the “compelling reasons” standard based on “conclusory statements about the contents of the
15 documents—that they are confidential” and that, in general, their disclosure would be harmful to
16 the movant. *Id.* at 1182. Furthermore, any “requests to seal documents must be ‘narrowly
17 tailored’ to remove from the public sphere only the material that warrants secrecy.” *Florence v.*
18 *Cenlar Fed. Sav. & Loan*, No. 2:16-cv-00587, 2017 WL 1078637, at *2 (D. Nev. March 20,
19 2017). “As a corollary, to the extent any confidential information can be easily redacted while
20 leaving meaningful information available to the public, the court must order that redacted
21 versions be filed rather than sealing entire documents.” *Id.*; *see In re Roman Catholic Archbishop*
22 *of Portland in Oregon*, 661 F.3d 417, 425 (9th Cir. 2011); *see Welch v. Minev*, No. 2:19-cv-
23 01064-GMN-BNW, 2022 WL 4809269, at *2 (D. Nev. Oct. 1, 2022).

24 **II. Discussion.**

25 As a preliminary matter, the Court finds that the compelling reasons standard applies
26 because the exhibits both Plaintiffs and Defendants seek to seal are attached to summary
27 judgment briefings.
28

1 **A. Plaintiffs’ motion to seal (ECF No. 545).**

2 Plaintiffs move to redact certain exhibits to their response to Defendant’s motion for
3 summary judgment and to seal other exhibits. (ECF No. 545). Plaintiffs explain that Exhibits 2,
4 4-7, 9-11, 18-20, 22, 24, 25, 27, 28, and 32-35¹ are depositions of various witnesses that include
5 information regarding patients and medical information. Plaintiffs assert that they have redacted
6 these transcripts to remove private medical information. Plaintiffs also seek to seal Exhibits 1, 3,
7 8, 12-16, 37, and 38 in their entirety. Plaintiffs explain that Exhibits 1, 3, 8, 12-15, 16, 37, and 38
8 include protected health information of third parties who treated with Defendants, including
9 descriptions of their injuries, financial information, damages calculations, claims, and medical
10 charges. Plaintiffs argue that, because this information is protected under the Health Insurance
11 Portability and Accountability Act (HIPAA), there is a compelling reason to seal and redact the
12 documents. The Court agrees. *See Ansara v. Maldonado*, No. 2:19-cv-01394-GMN-VCF, 2022
13 WL 17253803, at *3 (D. Nev. Nov. 1, 2022) (explaining that “sensitive and private medical
14 information protected by HIPPA” meets the compelling reasons standard); *See Steven City*
15 *Broomfield v. Aranas*, No. 3:17-cv-00683, 2020 WL 2549945, at *2 (D. Nev. May 19, 2020)
16 (compiling cases). It will therefore grant Plaintiffs’ motion.

17 **B. Defendants’ motion to seal (ECF No. 550).**

18 Defendants move to seal Exhibits C and D to its response—excerpts of depositions from
19 Plaintiffs’ 30(b)(6) designees—that Plaintiffs designated confidential because they believe that
20 they constitute or contain sensitive commercial information and trade secrets regarding how they
21 settle claims. Defendants also move to seal Exhibits F, G, H, L, JJ, OO, and PP to the response
22 because they contain the names of former patients. Defendants explain that they have redacted
23 the names from the documents and thus, the documents need not be sealed in their entirety.
24 However, Defendants have not filed the redacted version of these exhibits on the public docket.
25 Defendants move to seal Exhibit I because it is a third-party contractual agreement and contains

26
27 ¹ Plaintiffs refer to Exhibits 17-36 in their motion. However, this appears to be a typo because
28 Exhibits 17, 21, 23, 26, 29, 30, and 31 are filed on the public docket. (ECF Nos. 541-6, 541-10,
542-1, 542-4, 542-7, 542-8, 542-9).

1 sensitive commercial information related to a nonparty. Defendants also move to seal Exhibits T
2 and U because Plaintiffs designated the documents confidential believing that they contain
3 sensitive commercial and trade secret information. Defendants do not take a position whether the
4 documents designated confidential by Plaintiffs meet the compelling reasons standard.

5 The Court grants Defendants' motion in part and denies it in part. The Court denies
6 Defendants' motion regarding Exhibits C, D, J, N, T, U, Z, AA, and DD. Defendants have not
7 taken a position on whether Exhibits C, D, T, and U meet the compelling reasons standard to
8 remain under seal. And Plaintiffs have not filed a response to Defendants' motion. This leaves
9 the Court without any grounds on which to base its sealing decision. Additionally, Defendants
10 list Exhibits J, N, Z, AA, and DD in their conclusion, but do not provide any argument regarding
11 these exhibits. It is also unclear which party designated these documents confidential. The Court
12 will thus deny Defendants' motion regarding Exhibits C, D, J, N, T, U, Z, AA, and DD. The
13 Court will not order these documents filed on the public docket at this time. But it will order the
14 parties to meet and confer and submit a joint submission regarding these exhibits. For each
15 exhibit, the designator must either establish compelling reasons to keep the documents under seal
16 or withdraw their confidentiality designations and agree that the documents should be unsealed.
17 The parties' must file this joint submission on or before September 6, 2023.

18 The Court finds that Defendants have established compelling reasons to seal the
19 unredacted versions of Exhibits F, G, H, L, JJ, OO, and PP because they contain patient names
20 and protected health information. But Defendants have not filed the redacted version of those
21 transcripts on the docket. The Court will thus require Defendants to file the redacted versions of
22 Exhibits F, G, H, L, JJ, OO, and PP on the public docket on or before September 6, 2023.
23 Finally, the Court finds compelling reasons to seal Exhibit I because it is a contractual agreement
24 between two third parties and is marked privileged. *See In re Anthem, Inc. Data Breach*
25 *Litigation*, No. 15-md-02617-LHK, 2018 WL 3067783, at *3 (N.D. Cal. Mar. 16, 2018) ("Courts
26 generally accept attorney-client privilege and the work-product doctrine as a 'compelling reason'
27 justifying a motion to seal.") (quoting *Hanson v. Wells Fargo Home Mortg., Inc.*, No. 13-cv-
28 00939-JLR, 2013 WL 5674997, at *3 (W.D. Wash. Oct. 17, 2013)).

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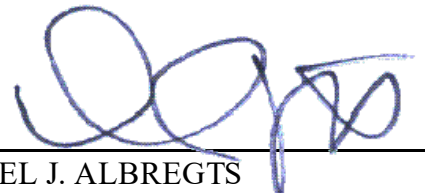
IT IS THEREFORE ORDERED that Plaintiffs' motion to seal (ECF No. 545) is **granted**.

IT IS FURTHER ORDERED that Defendants' motion to seal (ECF No. 550) is **granted in part and denied in part**. It is granted in part regarding Exhibits F, G, H, I, L, JJ, OO, and PP. It is denied in part regarding Exhibits C, D, J, N, T, U, Z, AA, and DD. However, the Court will not require the parties to file public versions of Exhibits C, D, J, N, T, U, Z, AA, and DD at this time.

IT IS FURTHER ORDERED that on or before **September 6, 2023**, the parties must meet and confer and file a joint submission regarding Exhibits C, D, J, N, T, U, Z, AA, and DD. For each exhibit, the designator must either establish compelling reasons to keep the documents under seal or withdraw their confidentiality designations and agree that the documents should be unsealed.

IT IS FURTHER ORDERED that Defendants must file redacted versions of Exhibits F, G, H, L, JJ, OO, and PP on the public docket on or before **September 6, 2023**.

DATED: August 16, 2023



DANIEL J. ALBREGTS
UNITED STATES MAGISTRATE JUDGE