

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO
CENTRAL**

MINUTE ORDER

DATE: 04/07/2017

TIME: 10:30:00 AM

DEPT: C-68

JUDICIAL OFFICER PRESIDING: Judith F. Hayes

CLERK: Richard Cersosimo, Ryan A Willis

REPORTER/ERM: Not Reported

BAILIFF/COURT ATTENDANT: P.K. Beebe

CASE NO: **37-2015-00028243-CU-IC-CTL** CASE INIT.DATE: 03/24/2015

CASE TITLE: **White DDS vs. Unum Group [IMAGED]**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Insurance Coverage

EVENT TYPE: Motion Hearing (Civil)

APPEARANCES

Terrence J. Coleman, specially appearing for counsel Ryan H Opgenorth, present for Plaintiff(s).
MICHAEL B BERNACCHI, counsel, present for Defendant(s) telephonically.

The Court hears oral argument and CONFIRMS the tentative ruling as follows:

The Motion of Defendants Unum Group and Provident Life & Accident Insurance Company (collectively "Unum") to Seal Documents Submitted by Plaintiff in Her Opposition to Defendant's Motion for Summary Adjudication is DENIED.

Unum seeks to seal Exhibits 11-13, 27 and 28, and discussion of the information contained therein within the Plaintiff's opposition papers to Unum's motion for summary adjudication.

California Rules of Court Rule 2.550 states, in relevant part:

(d) Express factual findings required to seal records

The court may order that a record be filed under seal only if it expressly finds facts that establish:

(1) There exists an overriding interest that overcomes the right of public access to the record;

(2) The overriding interest supports sealing the record;

(3) A substantial probability exists that the overriding interest will be prejudiced if the record is not sealed;

(4) The proposed sealing is narrowly tailored; and

(5) No less restrictive means exist to achieve the overriding interest.

The same type of information in Exhibits 11-13 was made public in the case *Broffman v. Provident Life & Accident Ins. Co.* where Unum's scorecards, weekly tracking reports, and performance plans were entered into evidence. Even if Unum's request to seal Exhibits 11-13 were granted, Unum's scorecards, weekly tracking reports, and performance plans would still be available to the public from the *Broffman*

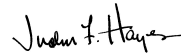
case. Unum fails to explain what, if any information, is different in the scorecards, weekly tracking reports, and performance plans contained in Exhibits 11-13 from those entered into evidence in the *Broffman* case. Thus, Unum has failed to meet its burden that there is a substantial probability it will suffer prejudice if Exhibits 11-13 are not sealed.

Exhibits 27 and 28 are portions of the Paul Peter and Holly Crawford depositions. Unum asserts they address "Exhibits 11-14, 26, 29 and 30 of the Coleman Declaration concerning quality assurance measures, claim statistics, reserves, performance measures, and additional confidential information." As Exhibits 11-13 will not be sealed, any discussion of Exhibits 11-13 in deposition testimony will not be sealed. Unum fails to narrowly tailor the sealing of Exhibits 27 and 28, which Unum concedes contain non-confidential information. Unum has failed to meet its burden that Exhibits 27 and 28 should be sealed.

As the references in Plaintiff's opposition papers to the summary adjudication motion came about as discussions of the above-discussed Exhibits, they will not be sealed since the Exhibits themselves will not be sealed.

The minutes are the order of the Court. No formal order is required.

IT IS SO ORDERED.



Judge Judith F. Hayes