

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

SUNLUST PICTURES LLC,

Plaintiff,

Case No. 8:12-CV-01685-MSS-MAP

v.

TUAN NGUYEN,

Defendant.

**MOTION TO SEAL DECLARATION OF PHYSICIAN
CONTAINING CONFIDENTIAL MEDICAL INFORMATION
AND SUPPORTING MEMORANDUM**

Pursuant to Fed. R. Civ. P. 5.2 and Middle District of Florida Local Rule 1.09(a), Non-Parties Paul Duffy moves to file under seal the declaration of Mr. Duffy's physician, Dr. David J. Fletcher, M.D., as a supplemental exhibit to the Non-Parties' Memorandum in Opposition to Defendant Tuan Nguyen's Omnibus Motion for Sanctions and hereby request that the Court enter an order placing the document under seal,. The grounds supporting this motion are set forth in the following Memorandum.

MEMORANDUM

The Declaration of Dr. Fletcher provides detailed information regarding the medical condition that rendered Mr. Duffy unable to fly to Tampa to attend the November 27, 2012, hearing and is therefore relevant to the Court's consideration of Defendant's motion for sanctions. Mr. Duffy should be permitted to file this motion under seal because it contains Mr. Duffy's confidential medical information, which should not be made part of the public record in this case. "The need to protect medical privacy qualifies as a "compelling reason"

that overcomes the presumption of public access to judicial records. *Abbey v. Hawaii Employers Mut. Ins. Co. (HEMIC)*, 760 F. Supp. 2d 1005, 1013 (D. Haw. 2010).

Counsel believes that simple redaction of the confidential medical information contained in the Declaration would not be fruitful because virtually the entire Declaration consists of confidential medical information. Accordingly, they request that the Court allow the filing of Dr. Fletcher's declaration under seal, and that the seal be maintained permanently.

For these reasons, Non-Party Paul Duffy respectfully requests that the Court enter an Order permitting the filing of Dr. Fletcher's Declaration under seal.

Respectfully submitted,

/s/ James E. Felman

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Duffy, Brett Gibbs and John Steele*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on December 20, 2012, I electronically filed the foregoing with the Clerk of the Court which will send a notice of electronic filing to:

Graham W. Syfert
graham@syfert.com

Matthew Thomas Wasinger
mattw@wasingerlawoffice.com

s/ James E. Felman _____
James E. Felman