

The Honorable Richard A. Jones

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ABDIQAFAR WAGAFE, *et al.*,

Plaintiffs,

v.

JOSEPH R. BIDEN, President of the United
States, *et al.*,

Defendants.

No. 2:17-cv-00094-RAJ

**RESPONSE TO PLAINTIFFS’ MOTION
TO SEAL PLAINTIFFS’ OPPOSITION
TO DEFENDANTS’ MOTION TO
EXCLUDE THE TESTIMONY AND
REPORTS OF PLAINTIFFS’ EXPERTS
ARASTU, GAIRSON, AND RAGLAND**

Defendants do not oppose Plaintiffs’ Motion to Seal and ask the Court to grant the motion. *See* Dkt. 496.

LEGAL STANDARD

The strong presumption of public access to court records ordinarily requires the moving party to provide compelling reasons to seal a document. *Kamakana v. City & County of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006). But, the less onerous “good cause” standard applies to “sealed materials attached to a discovery motion unrelated to the merits of a case.” *Ctr. for Auto Safety, v. Chrysler Group, LLC*, 809 F.3d 1092, 1097 (9th Cir. 2016). Here, the

1 good cause standard applies because the sealed materials are related to the parties' outstanding
2 discovery disputes, *see* Dkt. No 372, which relates to non-dispositive discovery-related motions.
3 *See Ctr. for Auto Safety*, 809 F.3d at 1097.

4 Under this Court's Local Rules, a motion to seal a document must include the following:

5 (A) a certification that the party has met and conferred with all other parties in an
6 attempt to reach agreement on the need to file the document under seal, to
7 minimize the amount of material filed under seal, and to explore redaction
and other alternatives to filing under seal; this certification must list the date,
manner, and participants of the conference;

8 (B) a specific statement of the applicable legal standard and the reasons for
keeping a document under seal, including an explanation of:

- 9 i. the legitimate private or public interests that warrant the relief sought;
10 ii. the injury that will result if the relief sought is not granted; and
iii. why a less restrictive alternative to the relief sought is not sufficient.

11 LCR 5(g)(3). Furthermore, where the parties have entered a stipulated protective order
12 governing the exchange in discovery of documents that a party deems confidential, a
13 party wishing to file a confidential document it obtained from another party in discovery
14 may file a motion to seal but need not satisfy subpart (3)(B) above. *Id.* Instead, the party
15 who designated the document confidential must satisfy subpart (3)(B) in its response to
16 the motion to seal or in a stipulated motion. *Id.*

17 **ARGUMENT**

18 Here, portions of Plaintiffs' Opposition to Defendants' Motion to Exclude the Testimony
19 and Reports of Plaintiffs' Experts Arastu, Gairson, and Ragland, as well as Exhibits A-C and E
20 attached to that motion contain information produced to Plaintiffs under the protective orders in
21 this case (Dkts. 86, 183, 192). The exhibits consist of expert reports and a deposition transcript,
22 which have been previously marked confidential under this Court's protective orders because

1 they reference sensitive content from A-file and policy documents, as well as information about
2 individuals' immigration benefit applications. This Court has already agreed that the categories
3 of information in these documents that Defendants have designated under protective orders are
4 appropriately confidential or subject to Attorneys' Eyes Only. *See* Dkt. No. 86, 2(k)-(m), 183.
5 Accordingly, for the same reasons that such information has been protected throughout this
6 litigation, Defendants request that portions of Plaintiffs' Opposition to Defendants' Motion to
7 Exclude the Testimony and Reports of Plaintiffs' Experts Arastu, Gairson, and Ragland, as well
8 as Exhibits A-C and E attached to that motion, remain under seal.

CONCLUSION

For the foregoing reasons, the Court should grant Plaintiffs' motion to seal.

Dated: April 19, 2021

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on April 19, 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

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