

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 MOTION TO EXCLUDE OPINIONS  
OF SEAN KRUSKOL

Defendants do not oppose Plaintiffs’ Motion to Seal and ask the Court to grant the motion. *See* Dkt. 489.

**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 good cause standard applies because the sealed materials are related to the parties’ outstanding

1 discovery disputes, *see* Dkt. No 372, which relates to non-dispositive discovery-related motions.

2 *See Ctr. for Auto Safety*, 809 F.3d at 1097.

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

4 (A) a certification that the party has met and conferred with all other parties in an  
5 attempt to reach agreement on the need to file the document under seal, to  
6 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;

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

- 9 i. the legitimate private or public interests that warrant the relief sought;  
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.

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

16 **ARGUMENT**

17 Here, portions of Plaintiffs' Opposition to Defendants' Motion to Exclude Opinions of  
18 Sean Kruskol, as well as Exhibits A and F attached to that motion, contain information produced  
19 to Plaintiffs under the protective orders in this case (Dkts. 86, 183, 192). The exhibits consist of  
20 an expert report and portions of a deposition transcript, which have been previously marked  
21 confidential under this Court's protective orders because they reference sensitive content from  
22 CARRP policy documents and the FDNS-DS database for tracking applications presenting  
23 national security concerns, as well as information about individuals' immigration benefit

1 applications. Defendants drafted their Motion to Exclude Opinions of Sean Kruskol, as well as  
2 their reply to Plaintiffs' opposition, in a manner to allow for public filing. This Court has  
3 already agreed that the categories of information in these documents that Defendants have  
4 designated under protective orders are appropriately confidential or subject to Attorneys' Eyes  
5 Only. *See* Dkt. No. 86, 2(k)-(m), 183. Accordingly, for the same reasons that such information  
6 has been protected throughout this litigation, Defendants request that select portions of Plaintiffs'  
7 Opposition to Defendants' Motion to Exclude Opinions of Sean Kruskol, as well as Exhibits A  
8 and F attached to that motion, remain under seal. The redacting of information in Plaintiffs'  
9 Opposition has been minimized to allow the public filing to be as complete and transparent as  
10 possible, while protecting protective order information.

**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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