

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MARYLAND

BROCK STONE, *et al.*,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity as
President of the United States, *et al.*,

Defendants.

Case 1:17-cv-02459-MJG

Hon. Marvin J. Garbis

DEFENDANTS' MOTION TO FILE DECLARATIONS UNDER SEAL

Pursuant to Local Rule 105.11 and the Uniform Protective Order and Cross-Use Agreement (“Protective Order”), Dkt. 111, Defendants respectfully move the Court to place under seal the declarations of Sergeant First Class Donald D. Osburn II and Major Ricardo S. Flores, filed in support of Defendants’ Motion to Dismiss Plaintiffs’ Second Amended Complaint or, in the Alternative, for Summary Judgment, which Defendants have filed concurrently with this motion. Defense counsel has conferred with Plaintiffs’ counsel regarding this motion, and Plaintiffs do not object to the relief Defendants seek.

The Protective Order defines “Protected Material” as “any Discovery Material that the designating party reasonably believes contains confidential information, including personal, proprietary, or sensitive information not generally disclosed to the public,” and states that “[a]ny party seeking to file documents containing Protected Material shall file a motion to file under seal pursuant to all applicable Federal Rules of Civil Procedure and the Local Rules of this Court.” Protective Order 2, 8. Local Rule 105.11 provides that the Court may grant a motion to seal if the moving party includes “(a) proposed reasons supported by specific factual representations to justify the sealing and (b) an explanation why alternatives to sealing would not provide sufficient protection.”

Sealing is appropriate here. The declarations of Sergeant First Class Donald D. Osburn II and Major Ricardo S. Flores contain medical information about certain Plaintiffs. This medical information is covered by the Protective Order because it is “personal . . . or sensitive information not generally disclosed to the public.” Protective Order 2. Personal and sensitive medical information should not be placed on the public record, and there are no alternatives to sealing that would adequately protect Plaintiffs’ privacy.

Pursuant to Local Rule 105.11, if the Court denies this Motion, Defendants reserve their right to withdraw the Sealed Declarations from the docket and secure prompt return of all such materials served upon Plaintiffs. In the interim, Plaintiffs and their counsel should not disclose publicly or use outside of this litigation the Sealed Declarations.

For the above stated reasons, Defendants respectfully request that the Court enter an order sealing the declarations of Sergeant First Class Donald D. Osburn II and Major Ricardo S. Flores, filed in support of Defendants’ Motion to Dismiss Plaintiffs’ Second Amended Complaint or, in the Alternative, for Summary Judgment. A proposed order is attached.

May 11, 2018

Respectfully Submitted,

CHAD A. READLER
Acting Assistant Attorney General
Civil Division

BRETT A. SHUMATE
Deputy Assistant Attorney General

BRINTON LUCAS
Counsel to the Assistant Attorney General

JOHN R. GRIFFITHS
Branch Director

ANTHONY J. COPPOLINO
Deputy Director

/s/ Ryan Parker

RYAN B. PARKER

Senior Trial Counsel

ANDREW E. CARMICHAEL

COURTNEY D. ENLOW

Trial Attorneys

United States Department of Justice

Civil Division, Federal Programs Branch

Tel: (202) 514-4336

Email: ryan.parker@usdoj.gov

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[PROPOSED] ORDER

Whereas, on May 11, 2018, Defendants filed a Motion to File Declarations Under Seal (the “Motion”);

Whereas, in the Motion, Defendants have proposed reasons supported by specific factual representations to justify the sealing, in accordance with L.R. 105.11;

Whereas, Plaintiffs have identified the following portion of the record as that portion which is subject to the Motion: the Declarations of Sergeant First Class Donald D. Osburn II and Major Ricardo S. Flores filed in support of Defendants’ Motion to Dismiss Plaintiffs’ Second Amended Complaint or, in the Alternative, for Summary Judgment (hereafter, the “Sealed Declarations”);

Whereas, the Court has considered the Motion and any opposition thereto;

Whereas, the Court has not ruled on the Motion for at least fourteen (14) days after it was entered on the public Court docket to permit the filing of objections by interested parties;

Whereas, the Court has considered any objections by interested parties, pursuant to L.R. 105.11;

Whereas, Defendants have stated in the Motion why alternatives to sealing would not provide sufficient protection;

Whereas, the Court finds and holds that alternatives to sealing would not provide sufficient protection;

Whereas, the Court finds and holds that sealing of a portion of the record, specified herein, is appropriate;

Accordingly, it is this ____ day of _____ 2018 by the United States District Court for the District of Maryland, ORDERED:

1. That Defendants' Motion to File Declarations Under Seal is hereby GRANTED, as specifically set forth herein;

2. That the Sealed Declarations (as defined above) are to be PLACED UNDER SEAL by the Clerk of the Court and that the Sealed Records shall be placed in an envelope or other container which is marked SEALED, SUBJECT TO ORDER OF COURT DATED _____.

3. A copy of this Order shall be mailed to all counsel of record and to any other person entitled to notice hereof, and shall be docketed in the Court file.

4. No party or their counsel shall make public or otherwise disclose any of the Sealed Records to any person or entity not directly associated with this litigation.

UNITED STATES DISTRICT JUDGE