

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

RICHARD ROE, ET AL.,
PLAINTIFFS,
v.
MARK T. ESPER, ET AL.,
DEFENDANTS.

CIVIL ACTION NO. 1:18-cv-01565

NICHOLAS HARRISON, ET AL.,
PLAINTIFFS,
V.
MARK T. ESPER, ET AL.,
DEFENDANTS.

CIVIL ACTION NO. 1:18-CV-00641

**PLAINTIFFS' MOTION TO FILE UNDER SEAL EXHIBITS A-C, E, AND F FILED
SIMULTANEOUSLY WITH PLAINTIFFS' SUPPLEMENTAL BRIEF
IN OPPOSITION TO DEFENDANTS' RENEWED
MOTIONS TO DISMISS PLAINTIFF OUTSERVE-SLDN**

Pursuant to Local Civil Rule 5, Plaintiffs respectfully move the Court to seal Exhibits A-C, E, and F filed simultaneously with Plaintiffs' Supplemental Brief in Opposition to Defendants' Renewed Motions to Dismiss Plaintiff OutServe-SLDN. These documents contain factual information that could be used to identify Plaintiffs, declarants, and deponents, who have a legitimate fear of discrimination based on their HIV status if their identities become public. These documents also contain factual information, regarding the LGBTQ identity and/or HIV status of non-party members of Plaintiff OutServe's organization, that, if it were to become public, could expose these individuals to discrimination based on their LGBTQ identity and/or HIV status. Finally, these documents contain confidential, proprietary, and sensitive information

about Plaintiff OutServe. For these reasons, which are elaborated upon in the accompanying Memorandum in Support, these documents must be filed under seal, along with redacted versions filed on the public record.

Dated: July 12, 2019

/s/ Scott Schoettes

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that, on the 12th day of July, 2019, I caused this document to be filed electronically through the Court's CM/ECF system, which automatically sent a notice of electronic filing to all counsel of record.

Dated: July 12, 2019

Respectfully submitted,

/s/ John W. H. Harding _____
John W.H. Harding

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**PROPOSED ORDER GRANTING PLAINTIFFS' MOTION TO
FILE UNDER SEAL EXHIBITS A-C, E AND F FILED SIMULTANEOUSLY
WITH PLAINTIFFS' SUPPLEMENTAL BRIEF
IN OPPOSITION TO DEFENDANTS' RENEWED
MOTIONS TO DISMISS PLAINTIFF OUTSERVE-SLDN**

Upon consideration of Plaintiffs' Motion to file under seal Exhibits A-C, E and F filed simultaneously with Plaintiffs' Supplemental Brief in Opposition to Defendants' Renewed Motions to Dismiss Plaintiff OutServe-SLDN, this Court GRANTS the motion, FINDING that: (1) Plaintiffs provided sufficient notice of the request; (2) there are no less drastic alternatives than filing parties' interrogatories and responses, Blevins's deposition transcript, Plaintiff OutServe's advisory council charging document, and Plaintiff OutServe's membership survey under seal along with publicly filed redacted versions; and (3) there is good cause to keep the pseudonymous Plaintiffs' and OutServe members' identities confidential due to the legitimate risk of stigma and discrimination based upon their LGBTQ identities and/or HIV status if their

identities become public and there is also good cause to keep confidential organizational documents containing confidential, proprietary, and sensitive information about OutServe. Under such circumstances, where “the public’s right of access is outweighed by competing interests,” the Court “may, in its discretion, seal documents.” *In re Knight Pub. Co.*, 743 F.2d 231, 235 (4th Cir. 1984). This order is consistent with the Court’s previous orders, ECF No. 42, ECF No. 69, and ECF No. 136 in which Plaintiffs’ exhibits to other motions were filed under seal along with publicly filed redacted versions. Therefore, it is hereby:

ORDERED that Exhibits A-C, E and F in support of Plaintiffs’ Supplemental Brief in Opposition to Defendants’ Renewed Motions to Dismiss Plaintiff OutServe-SLDN may remain filed under seal, and that Plaintiffs publicly file redacted versions of Exhibits A-C, E and F by July 19, 2019.

Entered this ____ day of _____, 2019.

United States District Judge