

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

REV. PAUL A. EKNES-TUCKER,)	
<i>et al.</i> ,)	
)	
<i>Plaintiffs</i> ,)	
)	
and)	
)	
UNITED STATES OF AMERICA,)	
)	
<i>Plaintiff-Intervenor</i> ,)	
v.)	No. 2:22-cv-00184-LCB-SRW
)	Hon. Liles C. Burke
STEVE MARSHALL, in his official)	
capacity as Attorney General of the)	
State of Alabama, <i>et al.</i> ,)	
)	
<i>Defendants</i> .)	

**DEFENDANTS’ UNOPPOSED MOTION TO UNSEAL DR. KOE’S
TESTIMONY FROM THE PRELIMINARY INJUNCTION HEARING**

Defendants respectfully move the Court to unseal the portions of the transcript containing Dr. Rachel Koe’s testimony at the preliminary injunction hearing. *See* Doc. 106. This motion is unopposed.

At the outset of this litigation, two Healthcare Provider Plaintiffs requested permission to proceed pseudonymously “to protect their privacy interests and the privacy and safety of their patients.” Doc. 6 at 9. After one Plaintiff withdrew her request to proceed under a pseudonym, this Court granted Dr. Koe’s request. Doc. 83 at 5. Plaintiffs then moved to seal portions of the preliminary injunction hearing

because public testimony could “place [Dr. Koe’s] privacy and security interests in jeopardy and undermine the Court’s order permitting [her] to proceed pseudonymously.” Doc. 90 at 4. Defendants did not oppose that motion, and the Court granted it. Doc. 94. Dr. Koe thus testified in a closed courtroom, and the transcript containing her testimony was filed under seal. Doc. 106.

Notwithstanding this Court’s initial grant of Plaintiffs’ motion, a motion to seal may be modified at the discretion of the Court if the party seeking modification shows that there is good cause to do so. *Romero v. Drummond Co., Inc.*, 480 F.3d 1234, 1245-46 (11th Cir. 2007). With the preliminary injunction hearing in the rearview mirror, a fresh assessment reveals that there is no longer good cause for this Court to keep Dr. Koe’s testimony under seal.

Defendants did not oppose sealing Dr. Koe’s testimony because her live testimony in open court would have allowed the public to see who she is, identify her voice, and hear any misstatement she or someone else might make that could reveal her identity. But those concerns do not apply to the transcript of her testimony. A review of Dr. Koe’s testimony shows that it does not contain any information that could be used to identify her. Dr. Koe did not disclose any identifying information in the hearing that she had not already disclosed in other public filings with this Court. Thus, unsealing her testimony does not threaten Dr. Koe’s pseudonymity or her privacy and security interests.

Neither the individual Plaintiffs nor the United States oppose unsealing Dr. Koe's transcript testimony. Nor have they identified any portions of the transcript that need redacting before being made public. Accordingly, and for good cause shown, Defendants request that the Court unseal pages 170:22 through 195:8 of the preliminary injunction transcript, which contains Dr. Koe's testimony.

Respectfully submitted,

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JUNE 21, 2022

CERTIFICATE OF SERVICE

I certify that I electronically filed this document using the Court's CM/ECF system on June 21, 2022, which will serve all counsel of record.

s/ A. Barrett Bowdre
Counsel for Defendants

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<i>Defendants</i> .)	

[PROPOSED] ORDER

Having considered Defendants’ Unopposed Motion to Unseal Dr. Koe’s Testimony From the Preliminary Injunction Hearing, and for good cause shown, the Court hereby GRANTS Defendants’ motion. The Clerk of Court is hereby directed to unseal the portions of the preliminary injunction transcript containing Dr. Koe’s testimony: pages 170:22 through 195:8 of the transcript.

DONE and ORDERED this ____ day of _____, 2022.

UNITED STATES DISTRICT COURT JUDGE