

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

JENNIFER ELLER

Plaintiff,

v.

PRINCE GEORGE'S COUNTY PUBLIC
SCHOOLS, et al.

Defendants.

Case Number: 18-cv-03649-TDC

MOTION TO FILE UNREDACTED EXHIBIT UNDER SEAL

Pursuant to Local Rule 105.11, Plaintiff Jennifer Eller hereby moves to file under seal the unredacted version of Exhibit A to Plaintiff's Memorandum of Law in Support of Motion in Limine to Exclude Expert Testimony of Dr. Marcellus R. Cephas, *see* Dkt. No. 146-3 ("Cephas Report"), which contains redactions.

Local Rule 105.11 provides that, "Any motion seeking the sealing of pleadings, motions, exhibits, or other documents to be filed in the Court record shall include (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." "[T]he decision whether to grant or restrict access to judicial records or documents is a matter of a district court's supervisory power, and it is one best left to the sound discretion of the district court, a discretion to be exercised in light of the relevant facts and circumstances of the particular case." *Virginia Dep't of State Police v. Washington Post*, 386 F.3d 567, 575 (4th Cir. 2004) (cleaned up). In making such a determination, a district court must "give the public notice of the request to seal and a reasonable opportunity to challenge the request," "consider less drastic alternatives to sealing," and if it decides to seal, "state the reasons (and specific supporting findings) for its decision and the reasons for rejecting alternatives to sealing." *Id.* at 576.

Here, portions of the Cephas Report include information that is of a highly sensitive

personal nature and that would ordinarily be protected from public disclosure. Indeed, portions of the Joint Record containing related information were previously sealed, *see* Dkt. 117, and designated as CONFIDENTIAL or RESTRICTED CONFIDENTIAL under the Protective Order issued by the Court on October 8, 2019, *see* Dkt. 43.

For example, portions of the Cephys Report include medical records, protected under the Health Insurance Portability and Accountability Act (HIPAA), or discussion of sensitive private medical information that would ordinarily be protected from public disclosure. *See, e.g., Bureau of Nat. Affs. v. Chase*, No. CIV.A. ELH-11-1641, 2012 WL 3065352, at *5 (D. Md. July 25, 2012) (granting motion to seal with respect to documents that were “hospital reports and other medical records”); *Rock v. McHugh*, 819 F. Supp. 2d 456, 476 (D. Md. 2011) (granting motion to seal with regards to medical records and documents that contained “sensitive medical information”); *Briggs v. Marriott Int’l, Inc.*, 368 F. Supp. 2d 461, 463 n.1 (D. Md. 2005) (granting motion to seal with regards to documents that contained “personal and medical information”), *aff’d*, 205 F. App’x 183 (4th Cir. 2006).

Yet, mindful of the right to public access to court records and that “more limited redactions are preferable to widespread sealing,” *Jones v. Prince George’s Cty. Pub. Sch.*, No. CV DKC 14-3245, 2016 WL 4077711, at *7 (D. Md. Aug. 1, 2016), Plaintiff does not seek to file under seal the entirety of the Cephys Report. Rather, concurrently with the instant motion, Plaintiff has filed on the public docket a redacted version of the Cephys Report that contains limited redactions to protect the privacy interests pertaining to the information detailed above. Thus, Plaintiff only seeks to file under seal the *unredacted* version of the exhibit.

Accordingly, and for the above stated reasons, Plaintiff respectfully requests that the Court enter an order sealing the *unredacted* version of Exhibit A to Plaintiff’s Memorandum of Law in Support of Motion in Limine to Exclude Expert Testimony of Dr. Marcellus R. Cephys. The unredacted version of that exhibit will be attached to a contemporaneously filed Notice of Filing of Document Under Seal. A proposed order is attached.

Respectfully submitted this 7th day of September 2022.

/s/ Lori B. Leskin

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**[PROPOSED] ORDER GRANTING MOTION TO FILE UNREDACTED EXHIBIT
UNDER SEAL**

Whereas, Plaintiff Jennifer Eller has filed a Motion to File Unredacted Exhibit Under Seal to file under seal the unredacted version of Exhibit A to Plaintiff's Memorandum of Law in Support of Motion in Limine to Exclude Expert Testimony of Dr. Marcellus R. Cephas (the "Exhibit");

Whereas, Plaintiff has filed on the public Court docket a redacted version of the Exhibit;

Whereas, the redacted information sought to be filed under seal is of a highly sensitive personal nature and that would ordinarily be protected from public disclosure, including medical records;

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; and

Whereas, the Court finds and holds that sealing of the unredacted Exhibit is appropriate;

Accordingly, it is on this ___ day of _____ 2022 by the United States District Court for the District of Maryland, ORDERED:

1. That Plaintiff's Motion to File Unredacted Exhibit Under Seal is GRANTED;

2. That the unredacted version of the Exhibit is hereby PLACED UNDER SEAL by the Clerk of the Court and that the Sealed Record 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 the Sealed Record to any person or entity not directly associated with this litigation.

Date

THEODORE D. CHUANG
United States District Judge