

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA

3
4 VIETNAM VETERANS OF AMERICA;
5 SWORDS TO PLOWSHARES: VETERANS
6 RIGHTS ORGANIZATION; BRUCE PRICE;
7 FRANKLIN D. ROCHELLE; LARRY
8 MEIROW; ERIC P. MUTH; DAVID C.
9 DUFRANE; TIM MICHAEL JOSEPHS; and
10 WILLIAM BLAZINSKI, individually,
11 on behalf of themselves and all
12 others similarly situated,

13 Plaintiffs,

14 v.

15 CENTRAL INTELLIGENCE AGENCY;
16 DAVID H. PETRAEUS, Director of
17 the Central Intelligence Agency;
18 UNITED STATES DEPARTMENT OF
19 DEFENSE; LEON E. PANETTA,
20 Secretary of Defense; UNITED
21 STATES DEPARTMENT OF THE ARMY;
22 JOHN M. MCHUGH, United States
23 Secretary of the Army; UNITED
24 STATES OF AMERICA; ERIC H.
25 HOLDER, Jr., Attorney General of
26 the United States; UNITED STATES
27 DEPARTMENT OF VETERANS AFFAIRS;
28 and ERIC K. SHINSEKI, UNITED
STATES SECRETARY OF VETERANS
AFFAIRS,

 Defendants.

No. C 09-0037 CW

ORDER REGARDING
DEFENDANTS'
SUPPLEMENTAL
DECLARATION IN
SUPPORT OF
PLAINTIFFS' MOTION
TO FILE UNDER SEAL
(Docket No. 356)

21 On February 24, 2012, the Court granted in part and denied in
22 part Plaintiffs' administrative motion to file under seal certain
23 exhibits that Plaintiffs offered in support of their motion for
24 class certification. In their motion, Plaintiffs stated that
25 Defendants had designated certain exhibits, including Exhibit 65,
26 as confidential and, subsequently, Defendants submitted a
27 declaration in support of Plaintiffs' motion. In the Order of
28

1 February 24, 2012, the Court denied Plaintiffs' request to file
2 Exhibit 65 under seal, noting that Defendants had failed to
3 address Exhibit 65 in their declaration or to provide any reasons
4 to support the sealing thereof.

5 On February 27, 2011, Defendants filed a supplemental
6 declaration in support of Plaintiffs' motion to seal. See Suppl.
7 Decl., Docket No. 356. In the supplemental declaration,
8 Defendants appear to request that the Court reconsider its denial
9 of Plaintiffs' motion to seal insofar as it pertained to Exhibit
10 65.

11 Because the public interest favors filing all court documents
12 in the public record, any party seeking to file a document under
13 seal must demonstrate good cause to do so. Pintos v. Pac.
14 Creditors Ass'n, 605 F.3d 665, 678 (9th Cir. 2010).

15 Exhibit 65 appears to consist of a "Volunteer's Participation
16 Agreement" executed by Plaintiff Tim M. Josephs on January 3,
17 1968. In their supplemental declaration, Defendants state that
18 Exhibit 65 is sealable because it "contains information about one
19 of the named Plaintiffs in this case that is covered by the
20 Privacy Act," specifically, his "name and serial number." Suppl.
21 Decl. ¶¶ 5-6. However, the Privacy Act covers disclosure of an
22 individual's confidential information by government agencies, not
23 by the individual himself. See 5 U.S.C. § 552a. While
24 Plaintiffs, who offer this document as an exhibit, do not object
25 to filing this exhibit under seal, Plaintiffs, including Mr.
26 Josephs, do not assert that it contains confidential information
27 or offer good cause in support of filing it under seal. Further,
28 Plaintiffs have already publicly disclosed that Mr. Josephs signed

1 this form. See Third Amended Compl. ¶ 196. See also Federal Rule
2 of Civil Procedure 5.2(h) (providing that, even as to certain
3 presumptively private information, a person may waive privacy
4 protections by filing it without redaction and not under seal).

5 Accordingly, Defendants have not provided good cause to file
6 Exhibit 65 under seal. The Court DENIES Defendants' request to
7 reconsider its Order of February 24, 2012 (Docket No. 356).

8 IT IS SO ORDERED.

9 Dated: 2/29/2012


CLAUDIA WILKEN
United States District Judge

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