

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 GRANTING IN
PART AND DENYING
IN PART
PLAINTIFFS' MOTION
TO SEAL
(Docket No. 375)

21 On March 22, 2012, Plaintiffs filed an administrative motion
22 seeking to file under seal the following documents: (1) portions
23 of their reply in support of their motion for class certification;
24 (2) portions of Exhibit 79 and the entirety of Exhibit 87 to the
25 Declaration of Stacy M. Sprenkel in support of their reply;
26 (3) the entirety of the Declaration of Tim Michael Josephs in
27 support of their reply; and (4) portions of the Declaration of
28

1 Bernard Edelman. Plaintiffs state that they have designated
2 certain portions of Exhibit 79 as confidential and that Defendants
3 have designated overlapping portions of that exhibit as
4 confidential as well. On March 29, 2012, Defendants filed a
5 declaration in support of Plaintiffs' motion to seal.

6 Because the public interest favors filing all court documents
7 in the public record, any party seeking to file a document under
8 seal must demonstrate good cause to do so. Pintos v. Pac.
9 Creditors Ass'n, 605 F.3d 665, 678 (9th Cir. 2010). This cannot
10 be established simply by showing that the document is subject to a
11 protective order or by stating in general terms that the material
12 is considered to be confidential, but rather must be supported by
13 a sworn declaration demonstrating with particularity the need to
14 file each document under seal. See Civil Local Rule 79-5(a). If
15 a document has been designated as confidential by another party,
16 that party must file a declaration establishing that the document
17 is sealable. Civil Local Rule 79-5(d).

18 Plaintiffs state that they seek to seal lines 82:4 and
19 142:2-5, 15 of Exhibit 79, the entirety of Exhibit 87, the Josephs
20 Declaration and portions of their reply brief, because they
21 contain "information relating the privacy and/or past, present, or
22 future physical or mental health or condition of persons not
23 specifically made public in the Complaint in this action."
24 Sprenkel Decl. ¶ 5. Plaintiffs also state that Exhibit 87,
25 portions of the Edelman Declaration and portions of their reply
26 brief are sealable, because they contain information regarding
27 third-party putative class members not otherwise made public in
28 this action. Id. at ¶ 6. Defendants state that they seek to seal

1 lines 81:24 through 82:10 of Exhibit 79, because it contains
2 "information from plaintiff David Dufrane's volunteer service
3 member test file concerning the specific chemical substances with
4 which he was tested," and that the test file is covered by the
5 Privacy Act. Gardner Decl. ¶¶ 5-6. Having reviewed the documents
6 at issue, the Court finds that the parties have established good
7 cause to seal lines 81:24 through 82:10 and 142:2-5, 15 of Exhibit
8 79, the entirety of Exhibit 87, portions of the Edelman
9 Declaration, and portions of their reply brief.

10 The Court also finds that Plaintiffs have provided good cause
11 to seal a portion of the Josephs Declaration. Plaintiffs have
12 already disclosed the information contained in paragraphs two,
13 three and a portion of four of the Josephs Declaration in the
14 third amended complaint (3AC). See 3AC ¶¶ 202 (stating that
15 information contained in Mr. Josephs's medical file "indicates
16 that Mr. Josephs likely received injections of nerve gas"); 211
17 (stating that Mr. Josephs has been diagnosed with Parkinson's
18 disease and currently suffers from hypertension); 212 (stating
19 that "Mr. Josephs sought benefits through the VA in the fall of
20 2009 . . . "). However, the private information contained in the
21 remainder of the declaration has not previously been disclosed
22 publicly. Accordingly, the Court finds good cause to seal the
23 Josephs declaration other than those portions noted above.

24 For the reasons set forth above, Plaintiffs' motion to seal
25 is GRANTED to the extent that it pertains to lines 81:24 through
26 82:10 and 142:2-5, 15 of Exhibit 79, the entirety of Exhibit 87,
27 portions of the Edelman Declaration, portions of their reply brief
28 and portions of the Josephs Declaration (Docket No. 375).

1 Plaintiffs' motion to seal is DENIED to the extent that it
2 pertains to paragraphs two, three and a portion of four of the
3 Josephs Declaration. In accordance with General Order 62, within
4 four days of the date of this Order, Plaintiffs shall
5 electronically file their reply brief, Exhibits 79 and 87, the
6 Edelman Declaration, and the Josephs Declaration under seal, and
7 shall file in the public record redacted versions of their reply
8 brief, Exhibits 79, the Edelman Declaration and the Josephs
9 Declaration.

10 IT IS SO ORDERED.

11
12 Dated: 3/29/2012

11 
12 CLAUDIA WILKEN
13 United States District Judge