

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.
DUFRANE; TIM MICHAEL JOSEPHS; and
WILLIAM BLAZINSKI, individually,
on behalf of themselves and all
others similarly situated,

9 Plaintiffs,

10 v.

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

27 Defendants.
28 _____/

No. C 09-0037 CW

ORDER GRANTING IN
PART, AND DENYING
IN PART,
DEFENDANTS' MOTION
TO SEAL
(Docket No. 451)

21 Defendants have submitted an administrative motion seeking to
22 file under seal their unredacted opposition to Plaintiffs' motion
23 to substitute and Exhibits A and B attached to the Declaration of
24 Judson O. Littleton, submitted in support of their opposition.
25 Having reviewed the papers submitted by Defendants and the
26 exhibits that they seek to file under seal, the Court grants
27 Defendants' motion in part and denies it in part.
28

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

13 Defendants represent that they are seeking to seal Exhibits A
14 and B because these exhibits contain records with identifying and
15 sensitive personal information about Plaintiff Wray Forrest and
16 specifically are his health records. Littleton Decl. ¶ 2. Having
17 reviewed the records, the Court finds that Defendants have
18 provided good cause to seal Exhibits A and B.

19 Defendants, however, have not provided good cause to support
20 the sealing of any portion of their opposition. Defendants
21 represent that they seek to seal their unredacted opposition
22 because in it "Defendants discuss confidential information
23 contained in Exhibit A." Littleton Decl. ¶ 5. In the unredacted
24 copy of their opposition provided to the Court, Defendants
25 indicate that they seek to seal a single sentence in their
26 opposition. Defs.' Opp to Pls.' Mot. to Substitute 6:24-27.¹

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28 ¹ The Court notes that the exhibits cited do not indicate when Mr. Forrest and his wife met.

1 While Defendants do not explain clearly what portion of this
2 sentence they believe is confidential, it appears that they
3 believe that their recitation of Mr. Forrest's alleged marital
4 history is sealable. However, marriage and divorce records are
5 generally a matter of public record, and Defendants do not provide
6 any basis to find otherwise here. To the extent that Defendants
7 may believe that the latter part of their statement is sealable,
8 the Court notes that Plaintiffs have already publicly disclosed
9 the fact and timing of Mr. Forrest's participating in the human
10 testing program. See, e.g., Third Amended Compl. ¶¶ 81-87.

11 For the reasons set forth above, Defendants' motion to file
12 under seal is DENIED to the extent that it pertains to their
13 unredacted opposition. Defendants' motion is GRANTED to the
14 extent that it pertains to Exhibits A and B to the Littleton
15 Declaration. In accordance with General Order 62, within four
16 days of the date of this Order, Defendants shall electronically
17 file Exhibits A and B under seal and shall file in the public
18 record their unredacted opposition.

19 IT IS SO ORDERED.

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21 Dated: July 3, 2012



CLAUDIA WILKEN
United States District Judge

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