

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

                                  Defendants.

No. C 09-0037 CW

ORDER GRANTING  
DEFENDANTS' MOTION  
TO SEAL  
(Docket No. 498)

United States District Court  
For the Northern District of California

                                  \_\_\_\_\_/

Defendants have filed an administrative motion seeking to file under seal Exhibits 61 through 66 of the Declaration of Joshua E. Gardner submitted in support of their opposition to Plaintiffs' motion for partial summary judgment and their cross-motion for summary judgment. Docket No. 498. Plaintiffs have submitted a declaration in support of the Defendants' motion to seal. Docket No. 499.

Defendants' filings are connected to a dispositive motion. Because Plaintiffs designated the documents at issue as

1 confidential, they must file a declaration establishing that the  
2 documents are sealable. Civil Local Rule 79-5(d). To do so,  
3 Plaintiffs "must overcome a strong presumption of access by  
4 showing that 'compelling reasons supported by specific factual  
5 findings . . . outweigh the general history of access and the  
6 public policies favoring disclosure.'" Pintos v. Pac. Creditors  
7 Ass'n, 605 F.3d 665, 679 (9th Cir. 2010) (citation omitted). This  
8 cannot be established simply by showing that the document is  
9 subject to a protective order or by stating in general terms that  
10 the material is considered to be confidential, but rather must be  
11 supported by a sworn declaration demonstrating with particularity  
12 the need to file each document under seal. Civil Local Rule  
13 79-5(a).

14 Plaintiffs represent that Exhibits 61 through 64 contain  
15 excerpts of deposition testimony of absent class members and that  
16 Exhibits 65 and 66 are their supplemental responses to Defendants'  
17 Interrogatories 19 and 21, which identify certain absent class  
18 members. Plaintiffs state that these exhibits should be  
19 maintained under seal because "they contain information relating  
20 to the privacy and/or past, present, or future physical or mental  
21 health or condition of persons not specifically made public in the  
22 Complaint in this action." Patterson Decl. ¶ 3. Plaintiffs also  
23 note that this Court has previously sealed excerpts of testimony  
24 from the same deponents. Id. (citing Docket Nos. 352 at 2; 381 at  
25 3). Accordingly, Plaintiffs have provided compelling reasons to  
26 support the sealing of Exhibits 61 through 66.

27 For the reasons set forth above, Defendants' motion to file  
28 under seal is GRANTED. In accordance with General Order 62,

1 within four days of the date of this Order, Defendants shall  
2 electronically file Exhibits 61 through 66 under seal.

3 IT IS SO ORDERED.

4  
5 Dated: 1/16/2013

  
6 CLAUDIA WILKEN  
7 United States District Judge  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28