

**IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MASSACHUSETTS
BOSTON DIVISION**

STUDENTS FOR FAIR ADMISSIONS, INC.,

Plaintiff,

v.

PRESIDENT AND FELLOWS OF HARVARD
COLLEGE (HARVARD CORPORATION),

Defendant.

No. 1:14-cv-14176-ADB

**UNITED STATES' MOTION TO SEAL PORTIONS OF ITS
STATEMENT OF INTEREST IN SUMMARY JUDGMENT**

Pursuant to Local Rule 7.2, the United States moves this Court for an order sealing portions of its forthcoming Statement of Interest. The United States intends to file a Statement of Interest on August 30, 2018, pursuant to 28 U.S.C. § 517 and this Court's orders, *see* July 24, 2018, Elec. Ord., ECF No. 432. (granting leave to any interested party to file an *amicus* brief).

As previously explained, the United States is currently conducting an independent Title VI investigation into whether Harvard's admissions policy and practices discriminate against Asian-American applicants to Harvard College. *See generally* U.S. Notice of Interest in Public Access to Summ. J. Briefing and Materials, ECF No. 395. Pursuant to its Title VI investigative authority, *see* 28 C.F.R. § 42.106, United States Department of Justice has secured most of the discovery materials that Defendant Harvard has designated as confidential and highly confidential in this case, and obtained most portions of the sealed versions of the parties' summary judgment briefs, statements of facts, and exhibits. The United States' forthcoming

Statement of Interest cites, refers to, and sometimes directly quotes the portions of the parties' summary judgment materials that are currently under seal.¹

This Court has not yet ruled on the parties' dispute regarding whether these sealed portions of summary judgment materials should be released to the public. *See generally* Jt. Mot. to Seal Certain Information, ECF No. 410; SFFA Mem. in Opp'n to Harv. Mot. to Seal, ECF No. 427. To maintain the parties' current level of sealing, the United States requests that the Court allow the United States to file portions of its Statement of Interest under seal, and that the document subject to this Motion be impounded until further order of the Court. *See* L.R. 7.2(a); *see also* Elec. Ord. Gr. [Harv.] Mot. to Seal, ECF No 431 (granting similar request). If further order of this Court does not order a release to the public, the United States requests that the document subject to this Motion be returned to undersigned counsel for any post-impoundment period. *Id.*

For the reasons above, the United States respectfully requests that the Court grant this Motion and allow the United States to file under seal portions of its forthcoming Statement of Interest.

Respectfully submitted,

John M. Gore
Acting Assistant Attorney General

Sean R. Keveney
Acting Senior Counsel

¹ Defendant Harvard has designated these materials as Confidential or Highly Confidential—Attorneys' Eyes Only pursuant to the Stipulated Protective Order, ECF No. 55.

/s/ Matthew J. Donnelly

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DATED: August 30, 2018

CERTIFICATE OF CONFERENCE

Pursuant to Local Rule 7.1(a), I hereby certify that I have conferred with counsel for the plaintiff and defendant regarding this Motion and both indicated that they did not object to the requested relief.

/s/ Matthew J. Donnelly
Matthew J. Donnelly
Attorney for the United States

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the CM/ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (“NEF”).

/s/ Matthew J. Donnelly
Matthew J. Donnelly
Attorney for the United States