

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

United States of America and  
State of Michigan,

v.

W.A. Foote Memorial Hospital,  
d/b/a Allegiance Health,

Plaintiffs,

Defendant.

Case No. 15-cv-12311

Judith E. Levy  
United States District Judge

Mag. Judge David R. Grand

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**OPINION AND ORDER DENYING PLAINTIFFS' CONSENT  
MOTION TO FILE UNDER SEAL [72] WITHOUT PREJUDICE  
AND ORDERING PLAINTIFFS TO SHOW CAUSE BY JANUARY  
27, 2017, WHY THEIR COMBINED CROSS-MOTION FOR  
SUMMARY JUDGMENT AND RESPONSE SHOULD NOT BE  
UNSEALED**

Plaintiffs United States of America and State of Michigan filed a consent motion for leave to file under seal its combined cross-motion for summary judgment and response to defendant Allegiance Health's motion for partial summary judgment. (Dkt. 72.) For the same reasons that the Court previously denied defendant's motion to seal (see Dkt. 66), the Court also denies this one.

The Court cannot permit the sealing of documents merely because the parties agreed to keep such documents confidential pursuant to a protective order during discovery. “[T]here is a stark difference between so-called ‘protective orders’ entered pursuant to the discovery provisions of Federal Rule of Civil Procedure 26, on the one hand, and orders to seal court records, on the other.” *Shane Grp., Inc. v. Blue Cross Blue Shield*, 825 F.3d 299, 305 (6th Cir. 2016). Although “[s]ecrecy is fine at the discovery stage, before the material enters the judicial record,” at “the adjudication stage, [] very different considerations apply.” *Id.* (quoting *Baxter Int’l, Inc. v. Abbott Labs.*, 297 F.3d 544, 545 (7th Cir. 2002); *Joy v. North*, 692 F.2d 880, 893 (2d Cir. 1982)). That the parties consented to seal is insufficient reason to do so. *See id.* at 305-06.

Plaintiffs are directed to review the Court’s previous order denying defendant’s motion to seal and order to show cause. (Dkt. 66.) Plaintiffs’ combined cross-motion and response (Dkt. 74) will be unsealed if plaintiffs do not show cause by January 27, 2017, as to why they should not be unsealed.

Accordingly, plaintiffs' motion to seal (Dkt. 72) is DENIED WITHOUT PREJUDICE.

Plaintiffs are ordered to show cause by January 27, 2017, why their combined cross-motion and response (Dkt. 74) should not be unsealed. Defendant Allegiance Health is invited to also submit a response at that time.

IT IS SO ORDERED.

Dated: January 23, 2017  
Ann Arbor, Michigan

s/Judith E. Levy  
JUDITH E. LEVY  
United States District Judge

**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on January 23, 2017.

s/Felicia M. Moses  
FELICIA M. MOSES  
Case Manager