

1 HONORABLE RICHARD A. JONES
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 ABDIQAFAR WAGAFE, et al.,

11 Plaintiffs,

12 v.

13 DONALD TRUMP, President of the
14 United States, et al.,

15 Defendants.
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CASE NO. C17-94 RAJ

ORDER

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18 This matter comes before the Court on Defendants' emergency motion for stay
19 pending appellate review. Dkt. # 156. Plaintiffs oppose the motion. Dkt. # 157. The
20 Court understands this motion to be one for reconsideration of its April 11, 2018 Order
21 denying in part Defendants' motion for a protective order. Dkt. # 148; *see also* Dkt. #
22 156 at 8. On May 9, 2018, the Court held a telephonic hearing on the matter. For the
23 reasons that follow, the Court **GRANTS** Defendants' motion for reconsideration. Dkt. #
24 156.

25 "Motions for reconsideration are disfavored." LCR 7(h)(1). "The court will
26 ordinarily deny such motions in the absence of a showing of manifest error in the prior
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1 ruling or a showing of new facts or legal authority which could not have been brought to
2 its attention earlier with reasonable diligence.” *Id.*

3 On April 24, 2018, the Court gave Defendants the opportunity to file a sampling of
4 case-by-case determinations regarding individual national security threats as they appear
5 on the class list. Dkt. # 162. Defendants filed the sampling *ex parte* and the Court
6 reviewed *in camera*. Though the Court finds this to be a close call—Defendants could
7 have attempted this strategy earlier to present such information—the Court nonetheless
8 finds that Defendants’ motion for reconsideration has merit.

9 The Court reconsiders the portion of its prior Order, Dkt. # 148, that required
10 Defendants to produce case-by-case determinations to Plaintiffs’ attorneys under an
11 attorney eyes only provision. In reconsidering, the Court once more reviews the
12 underlying motion for protective order. Dkt. # 126. The Court finds that it is appropriate
13 to find in favor of Defendants. Accordingly, the Court GRANTS Defendants’ motion for
14 a limited protective order to produce the class list under an attorney eyes only provision.
15 Dkt. # 126.

16 The Court therefore **ORDERS** the parties to abide by the following limited
17 protective order:

18 Disclosure of, and access to, the names, Alien numbers (“A numbers”), and
19 application filing dates of the unnamed plaintiff members of the Naturalization Class and
20 Adjustment-of-Status Class shall be limited to the following:

- 21 (1) Plaintiffs’ attorneys of record, during such time as they continue to represent
22 Plaintiffs;
- 23 (2) Experts retained by Plaintiffs to the extent reasonably necessary to prepare expert
24 reports and testimony; and
- 25 (3) The Court and court personnel.

26 Plaintiffs’ attorneys of record shall maintain the above-described information in a
27 secure manner, i.e. in a locked filing cabinet (for any paper copy) or in a password-

1 | protected electronic file to which only authorized persons have access, and shall not
2 | transmit that information over any electronic mail or cloud-based sharing unless the
3 | method of transmission employs point-to-point encryption or other similar encrypted
4 | transmission.

5 | Plaintiffs' counsel, and any person acting on their behalf, are prohibited from
6 | either disclosing to any individual who contacts them whether that individual is an
7 | unnamed member of either the Naturalization Class or Adjustment-of-Status class, or
8 | contacting the unnamed plaintiff members of the Naturalization Class and Adjustment-of-
9 | Status class for any purpose absent prior order of this Court.

10 | Plaintiffs' counsel must strictly abide by this limited protective order.

11 | Defendants agree to meet and confer with Plaintiffs' counsel over ways in which
12 | Defendants might be able to provide Plaintiffs' counsel with information about particular
13 | unnamed class members to develop evidence for use in their case. Defendants agree to
14 | do so while keeping in mind their obligation to protect against dangers to important
15 | governmental interests.

16 | Dated this 10th day of May, 2018.

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20 | The Honorable Richard A. Jones
21 | United States District Judge