

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

Adam Steele, Brittany Montrois, and )  
Joseph Henchman, on behalf of )  
themselves and all others similarly )  
situated, )

*Plaintiffs,* )

v. )

United States of America, )  
*Defendant.* )

Civil Action No.: 1:14-cv-01523-RCL

**RESPONSE TO PLAINTIFFS’ MOTION TO SEAL**

Plaintiffs filed a Motion to Seal but take the unprecedented and highly unorthodox step of asking the Court to deny their own Motion in their request for relief.<sup>1</sup> Dkt. No. 187. This is the second time that Plaintiffs have done this. In the first instance, the Government did not oppose the sealing of these documents and therefore did not oppose the Motion to Seal. Dkt. No. 177. Plaintiff then argued in their reply that, “Also relevant is the fact that the IRS did not oppose Plaintiffs’ request to unseal the documents . . .”

---

<sup>1</sup> Plaintiffs state they “have conferred with the government and Accenture as required by Local Rule 7(m). Accenture removed the designation on one of the documents it produced, but retained the designation on the other. Plaintiffs understand that the government does not object to removing the designations on the documents it produced, but retained the designations at the request of Accenture.” Dkt. No. 187 at 1. In fact, Plaintiff requested designations be lifted from two documents with USA Bates numbers that relate to Booz Allen Hamilton (BAH) and two documents with USA Bates numbers that relate Accenture. After conferring with the IRS and BAH, the United States did not object to lifting the confidential designation on USA-0009018 (Pl. Ex. CB) and USA-0009085 (Not Used). After conferring with the IRS and Accenture, the United States did object to lifting the confidential designation on USA-0020666 (Pl. Ex. 075) and USA-0020897 (Pl. Ex 144). *See* email string attached as Exhibit A.

Dkt. No. 182 at 7. However, Plaintiffs did not file a Motion to Unseal, they filed a Motion to Seal. The United States does not oppose the Motion to Seal. It agrees the requested documents should be sealed. Third party Accenture went a step further and filed a Response asking for the Court to grant Plaintiffs' Motion to Seal. In fact, the only ones who have opposed Plaintiffs' Motion are Plaintiffs themselves. And this is despite the fact that they filed the Motion. Plaintiffs, once again, seek the same bizarre result here.

In an abundance of caution, the United States files this opposition to make clear that its position is that the Court should grant Plaintiffs' Motion to Seal and reject any argument made by the Plaintiffs because they have failed to comply with the procedures to unseal records carefully negotiated and agreed upon by the parties and various third-party vendors in the Protective Order. *See* Dkt. No. 114; Dkt. No. 177; Dkt. No. 179. The Protective Order enumerates specific procedures by which the Plaintiffs were to challenge any CONFIDENTIAL or HIGHLY CONFIDENTIAL designations. Dkt. No. 114, ¶ 13(i)-(iii). Plaintiffs have failed to follow this procedure. Dkt. No. 177; Dkt. No. 179. The documents included in the United States' Motion to Seal are all documents designated CONFIDENTIAL or HIGHLY CONFIDENTIAL under the Protective Order. Dkt. No. 174. The Court has *already ordered* that these documents are to be filed under seal, and thus, because the United States has followed the procedures outlined in the Protective Order, no further justification is needed to keep these documents sealed. Dkt. No. 114.

Plaintiffs' are required to file a motion to seal in compliance with ECF filing requirements contained in the local rules for handling documents already ordered under

seal, and such is not an opportunity for Plaintiffs to sidestep this obligation and ask the Court to deny its own Motion. As such Plaintiffs' Motion to Seal should be granted and not denied.<sup>2</sup>

Dated: May 26, 2022

DAVID A. HUBBERT  
Deputy Assistant Attorney General

/s/ Emily K. Miller  
EMILY K. MILLER  
STEPHANIE A. SASARAK  
JOSEPH E. HUNSADER  
BENTON T. MORTON  
Trial Attorneys, Tax Division  
JOSEPH A. SERGI  
Senior Litigation Counsel  
U.S. Department of Justice  
Post Office Box 227  
Ben Franklin Station  
Washington, DC 20044  
Telephone: (202) 307-2250  
Facsimile: (202) 514-6866  
Joseph.A.Sergi@usdoj.gov  
Joseph.E.Hunsader@usdoj.gov  
Stephanie.A.Sasarak@usdoj.gov  
Emily.K.Miller@usdoj.gov  
Benton.T.Morton@usdoj.gov  
*Counsel for the United States of America*

---

<sup>2</sup> Ironically, Plaintiffs also seek to seal several of their own documents that are not covered by any protective orders (Exhibits CF, CG, and CH), yet provide absolutely no explanation as to why these documents should be sealed or how the *Hubbard* factors are met other than to say that the documents contain "personal identifying information." Dkt. No. 187 at 2. It was this exact situation, and not an agreed upon protective order, that was at issue in the *Silver* case cited by Plaintiffs in its Reply to Plaintiffs Motion to Seal. Dkt. 182 at 10 (citing *Silver v. I.R.S.*, 2021 WL 1177998, at \*2 (D.D.C. Mar. 28, 2021)). Nonetheless, the United States does not oppose these documents being filed under seal.

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing REPLY was filed with the Court's ECF system on May 26, 2022, which system serves electronically all filed documents on the same day of filing to all counsel of record.

*/s/ Emily K. Miller* \_\_\_\_\_  
EMILY K. MILLER  
Trial Attorney, Tax Division  
U.S. Department of Justice