

**IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN
DISTRICT OF GEORGIA ATLANTA DIVISION**

GEORGIA STATE CONFERENCE OF THE)	
NAACP, et al.)	
)	
<i>Plaintiffs,</i>)	Case No. 1:21-CV-5338-
)	ELB-SCJ-SDG
v.)	
)	
STATE OF GEORGIA, et al.)	
)	
<i>Defendants.</i>)	
_____)	Case No. 1:22-CV-00090-
COMMON CAUSE, et al.,)	ELB-SCJ-SDG
)	
<i>Plaintiffs,</i>)	
v.)	
)	
BRAD RAFFENSPERGER)	
)	
<i>Defendant.</i>)	

**UNPROPOSED MOTION AND BRIEF BY PLAINTIFFS GEORGIA STATE
CONFERENCE OF THE NAACP, GEORGIA COALITION FOR THE
PEOPLE’S AGENDA, INC., AND GALEO LATINO COMMUNITY
DEVELOPMENT FUND, INC., FOR LEAVE TO PARTIALLY SEAL
CERTAIN PORTIONS OF EXHIBITS IN OPPOSITION TO
DEFENDANTS’ MOTION FOR SUMMARY JUDGMENT AND IN
REDACTED FORM ON THE PUBLIC DOCKET**

Plaintiffs Georgia State Conference of the NAACP; Georgia Coalition for
the People’s Agenda, Inc.; and GALEO Latino Community Development Fund,

Inc. (collectively, “Georgia NAACP Plaintiffs”), move this Court for leave to file Exhibits 7-9 [Docs. 152-10, 152-11, and 152-12](hereinafter, “Exhibits 7-9”), to the Declaration of Plaintiffs’ Counsel Crenisha Berry in Support of Plaintiffs’ Response to Defendants’ Motion for Summary Judgment [Doc. 152-3](hereinafter, “Berry Declaration”) partially under seal and to permit the filing of the lightly redacted forms of Exhibits 7-9 on the publicly accessible docket.

Prior to filing this motion, Plaintiffs’ counsel notified Bryan Tyson, counsel for Defendants, of their intention to move the court to partially seal the subject documents and Mr. Tyson indicated he would not object to Plaintiffs’ counsel doing so.

I. Legal standard for partially sealing the docket entry.

It is clearly established that the public’s “right to inspect and copy judicial records is not absolute.” *Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 598 (1978). Accordingly, the Eleventh Circuit has determined that sealing sensitive documents is warranted upon a showing of “good cause.” *Romero v. Drummond Co., Inc.*, 480 F.3d 1234, 1246 (11th Cir. 2007).

In *Romero*, the Eleventh Circuit identified several factors which courts must consider in determining whether to seal documents, including: “whether allowing access would impair court functions or harm legitimate privacy interests, the

degree of and likelihood of injury if made public, the reliability of the information, whether there will be an opportunity to respond to the information, whether the information concerns public officials or public concerns, and the availability of a less onerous alternative to sealing the documents.” *Romero*, 480 F.3d at 1246; see also Local Rules at App. H. § II(J); and Instructions for Cases Assigned to the Honorable Steve C. Jones.

II. Good cause exists for partially sealing Exhibits 7-9 to the Declaration of Plaintiffs’ counsel, Crinesha Berry and granting Plaintiffs leave to file these Exhibits in redacted form on the publicly accessible docket.

In this case, all of the factors identified by the Eleventh Circuit in *Romero* weigh in favor of partially sealing Exhibits 7-9 and granting leave to Plaintiffs’ counsel to file said Exhibits on the publicly accessible docket in redacted form.

The information which Plaintiffs seek to redact are the names of individual rank-and-file, nonparty members of the respective Plaintiff organizations which were disclosed in response to Defendants’ Interrogatory No. 6 pursuant to a “Highly Confidential” “Attorneys’ Eyes Only” designation under the existing protective order.

This information was disclosed pursuant to the Highly Confidential, Attorneys’ Eyes-Only designation due to Plaintiffs’ concerns the disclosure of the names of the organizations members in the discovery responses would chill the

associational rights of the Plaintiffs and their members under the First Amendment. *See, e.g., NAACP v. Alabama*, 357 U.S. 449, 462 (1958)(recognizing the right of the NAACP to maintain the privacy of the names of its rank-and-file members and member lists from compulsory disclosure by the state); *Perry v. Schwarzenegger*, 591 F.3d 1126, 1142, 1160 & fn. 9 (9th Cir. 2009)(the compelled disclosure of associational relationships and activities may have a chilling effect on First Amendment associational rights); *Curling v. Raffensperger*, 1:17-CV-2989-AT, 2021 WL 5162576 (N.D. Ga. Nov. 5, 2021)(recognizing a party may invoke the First Amendment associational privilege where the compelled disclosure of information in discovery has a potential chilling effect on associational rights).

Since the Plaintiffs are only seeking to partially seal Exhibits 7-9 and to file lightly redacted versions in the publicly available file, the partial sealing of this information will not impair court functions or harm legitimate privacy interests.

Moreover, given the potential likelihood that the public disclosure of these members' names would chill the First Amendment associational rights of the organizational Plaintiffs and their members, the degree and likelihood of injury if their identities were made public is strong; the reliability of the information will not be impaired; and the Defendants already have the opportunity to respond to the information since they have been provided the full responses to Interrogatory No. 6

in their unredacted form.

Additionally, Plaintiffs are proposing a less onerous alternative to the full sealing of these Exhibits by requesting that the Court only partially seal the names of the organizational Plaintiffs' members disclosed in response to Interrogatory No. 6 and to grant the Plaintiffs leave to file lightly redacted versions of Exhibits 7-9 on the public docket.

Finally, since the documents at issue are being filed in lightly redacted form on the public docket, the public's interest in accessing the information has been appropriately preserved. For these reasons, good cause exists to partially seal Exhibits 7-9 and to grant Plaintiffs leave to file redacted versions of said Exhibits on the public docket.

CONCLUSION

Based upon the foregoing and having shown good cause for the requested relief, Plaintiffs' motion for leave to file Exhibits 7-9 [Docs. 152-10, 152-11 and 152-12] to the Berry's Declaration [Doc. 152-3] partially under seal and in

redacted form on the public docket should be granted.

Respectfully submitted this 27th day of April, 2023.

/s/ Julie M. Houk

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LOCAL RULE 7.1(D) CERTIFICATION OF COMPLIANCE

I certify that this pleading has been prepared with Times New Roman font,
14 point, as approved by the Court in L.R. 5.1(C), N.D. Ga.

/s/ Julie M. Houk
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CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of April, 2023, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system.

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BRAD RAFFENSPERGER)

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**[PROPOSED] ORDER GRANTING THE MOTION OF PLAINTIFFS
GEORGIA STATE CONFERENCE OF THE NAACP, GEORGIA
COALITION FOR THE PEOPLE’S AGENDA, INC., AND GALEO
LATINO COMMUNITY DEVELOPMENT FUND, INC., FOR LEAVE TO
PARTIALLY SEAL AND FILE IN PARTIALLY REDACTED FORM
CERTAIN PORTIONS OF EXHIBITS 7-9 TO DECLARATION OF
CRINESHA B. BERRY IN SUPPORT OF PLAINTIFFS’ RESPONSE TO
DEFENDANTS’ MOTION FOR SUMMARY JUDGMENT**

Having considered the Georgia NAACP Plaintiffs motion to partially seal
certain portions of Exhibits 7-9 [Docs. 152-10, 152-11, and 152-12]to the

Declaration Of Crinesha B. Berry In Support Of Plaintiffs' Response To Defendants' Motion For Summary Judgment [Doc. 152-3] and for good cause shown,

IT IS HEREBY ORDERED THAT Plaintiffs' motion to partially seal Exhibits 7-9 [Docs. 152-10-, 152-11, and 152-12] to Ms. Berry's Declaration [Doc. 152-3] is hereby GRANTED. It is hereby further Ordered that Plaintiffs shall file Exhibits 7-9 [Docs. 152-10, 152-11, ad 152-112] on the publicly accessible docket with the names of the members of the Plaintiffs' organizations contained therein redacted.

IT IS SO ORDERED:

Dated: _____

The Honorable Steve C. Jones
Judge of the United States District Court
Northern District of Georgia