

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

<hr/>)	
PASCAL ABIDOR, et al.)	
)	
Plaintiffs,)	Civil Action
)	No. 10 CV 4059
v.)	
)	(Korman, J.)
JANET NAPOLITANO, et al.)	(Azrack, M.J.)
)	
Defendants)	
<hr/>)	

JOINT MOTION REGARDING SEALED DOCUMENTS

Plaintiffs and Defendants jointly move to maintain the seal on the documents currently filed under seal. In support of the motion, the parties state as follows:

1. On December 31, 2013, this Court issued a Memorandum and Order granting Defendants’ motion to dismiss. *See* ECF Doc. 36. On the same day, the Clerk entered Judgment for the Defendants. *See* ECF Doc. 37.
2. On January 14, 2014, Plaintiffs filed a partial motion for reconsideration requesting the Court to reconsider the portion of its December 31, 2013 Order ruling dismissing Plaintiff Pascal Abidor’s claims for lack of standing. *See* ECF Doc. 38. Defendants opposed the motion. *See* ECF Doc. 39. The parties filed further briefs regarding the motion for reconsideration. *See* ECF Docs. 40, 45, 46, 54, 58, 61, 62, and 64.
3. At a hearing on April 25, 2014, this Court ordered Defendants to file under seal copies of “the summaries that were made [by the Government] of the records that were on

[Abidor's] computer." Hr'g Tr. at 38:5-6.¹ In accordance with that order, on May 16, 2014, Defendants filed, under seal, those portions of the relevant Government-created records describing the contents of Abidor's computer. *See* ECF Doc. 55; *see also* ECF Doc. 54 at 2 (a general description of the records filed under seal). Defendants redacted portions of the pages which were not responsive to the Court's request (*i.e.*, portions which did not describe the contents of Abidor's computer).

4. On June 5, 2014, Plaintiffs filed a sealed supplemental memorandum (ECF Doc. 58) containing references to some of the sealed materials. On June 20, 2014, Plaintiffs filed a public version of this supplemental memorandum. *See* ECF Doc. 62.
5. Concurrent with this Joint Motion Regarding Sealed Documents, Plaintiffs are (a) withdrawing their motion for reconsideration and all supplemental requests for the Court to alter or amend its December 31, 2013 order, and (b) have agreed not to appeal from the December 31, 2013 order or judgment. *See* ECF Doc. 72. The resolution of this case is as it was on December 31, 2013, when the Court granted Defendants' motion to dismiss and entered judgment in Defendants' favor.
6. As a result, the materials filed under seal are no longer relevant to a pending dispute between the parties.
7. The parties jointly move that the sealed materials remain under seal. The sealed materials contain personally identifiable information related to both Abidor and third parties. The sealed records submitted by Defendants (ECF Doc. 55 and Exhibit 1 submitted *in camera* and cited in the Court's order dated April 25, 2014 (ECF Doc. 51))

¹ At the hearing, a one page document describing eight emails sent by plaintiff was marked as Exhibit 1 and submitted *in camera* and under seal. *See* ECF Doc. 51. This document was included in the sealed submission of the government-created records filed by Defendant pursuant to the Court's order at the April 25, 2014 hearing.

are United States Government records maintained by Defendants in their systems of records consistent with otherwise applicable privacy and data protection rules and are disseminated only to those with a need to know. *See* ECF Doc. 54 at 5-8. Page four of Plaintiffs' supplemental memorandum (ECF Doc. 58) contains information from the sealed Government submission. Because the sealed materials are no longer relevant to a pending court dispute (as set forth in paragraphs 5 and 6 above), there is no need for them to be publicly docketed.

Respectfully submitted,

/s/ Brian M. Hauss

BRIAN M. HAUSS

HINA SHAMSI

American Civil Liberties Union
Foundation

125 Broad St., 18th Floor

New York, NY 10004

Tel: (212) 549-2500

Fax: (212) 549-2583

Email: bhauss@aclu.org

CATHERINE CRUMP

University of California, Berkeley

433 Boalt Hall, North Addition

Tel: (510) 292-6860

Email: ccrump@law.berkeley.edu

CHRISTOPHER DUNN

ARTHUR EISENBERG

New York Civil Liberties Union
Foundation

125 Broad St., 19th Floor

New York, NY 10004

Tel: (212) 607-3300

Attorneys for Plaintiffs

LORETTA E. LYNCH
United States Attorney

JOYCE BRANDA
Acting Assistant Attorney General

ELLIOT M. SCHACHNER
Assistant U.S. Attorney

DIANE K. KELLEHER
Assistant Branch Director

s/Marcia Sowles
MARCIA SOWLES
Senior Counsel
U.S. Department of Justice, Civil Division
Federal Programs Branch
20 Massachusetts Ave., N.W., Room 7114
Washington, D.C. 20530
Tel.: (202) 514-4960
Fax: (202) 616-8470
Email: marcia.sowles@usdoj.gov

Attorneys for Defendants