



April 10, 2025

VIA ECF

Honorable Mary Kay Vyskocil
United States District Court
Southern District of New York
500 Pearl Street, Room 2230
New York, NY 10007

Re: *American Association of University Professors et al. v. U.S. Department of Justice et al.*, Case No. 1:25-cv-02429

Dear Judge Vyskocil:

As counsel for Plaintiffs in the above-referenced case, we respectfully request approval to file *ex parte* under seal a reply brief in support of Plaintiffs' April 3, 2025 Letter Motion to Unseal a Declaration and Exhibit to Plaintiffs' Motion for a Preliminary Injunction (ECF No. 44). Plaintiffs also respectfully request approval to file a redacted version of the Reply Brief on the public docket.

Columbia University has opposed Plaintiffs' Motion to Unseal, arguing based on the "content and context of the materials" at issue that the attorney-client privilege applies. *See* Letter Motion to File Sealed Letter Opposition and Accompanying Declaration (ECF No. 58). Plaintiffs now seek to respond to Columbia's arguments, which similarly requires discussing the allegedly privileged document's contents. Although Plaintiffs maintain that the privilege does not apply, Plaintiffs agree that the information alleged to be privileged should be protected from public disclosure unless the Court resolves that question in their favor. Columbia has also sought to file *ex parte* and seal its entire Opposition Brief (ECF No. 59) and accompanying declaration, on the basis that it discusses the allegedly privileged documents.¹ Plaintiffs take no position on whether Columbia's Opposition Brief and accompanying declaration should be sealed. Because Columbia has filed its Opposition Brief provisionally under seal, and requested that the Court maintain it under seal, in an abundance of caution Plaintiffs also request that portions of their Reply Brief that reveal information set forth in Columbia's Opposition Brief remain under seal until such time as the Court has ruled on Columbia's sealing request.

As the Second Circuit has explained, sealing is appropriate when a moving party demonstrates a sufficiently "compelling interest" in restricting public access and shows that

¹ Columbia originally filed its Opposition Brief *ex parte*, meaning that it was not served on Plaintiffs. Columbia later provided Plaintiffs with a redacted copy of its Opposition Brief, but did not provide Plaintiffs with a copy of the declaration accompanying that Opposition Brief. *See* ECF 60.



sealing is necessary “to preserve higher values and is narrowly tailored to serve that interest.” *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 120 (2d Cir. 2006) (citations omitted). Absent waiver, the fact that information is subject to attorney-client privilege can be a “compelling interest” that justifies restricting public access. *Id.* at 125. Plaintiffs seek to serve that interest by filing a redacted version of their Reply Brief on the public docket, thus protecting the information at issue until such time as the Court rules on the privilege and sealing issues, while ensuring the public can understand the nature of the dispute.

For the foregoing reasons, Plaintiffs’ motion to file their Reply Brief under seal, along with a redacted public version, should be granted.

Respectfully submitted,

s/ Eve H. Cervantez

Orion Danjuma
Rachel Goodman
Deana K. El-Mallawany*
The Protect Democracy Project, Inc.
82 Nassau Street, #601
New York, NY 10038
Tel: (202) 579-4582
Fax: (202) 769-3176
orion.danjuma@protectdemocracy.org
rachel.goodman@protectdemocracy.org
deana.elmallawany@protectdemocracy.org

Anna Dorman*
Catherine Chen*
Amit Agarwal*
The Protect Democracy Project, Inc.
2020 Pennsylvania Ave. NW, Suite #163
Washington, D.C. 20006
Tel: (202) 579-4582
Fax: (202) 769-3176
anna.dorman@protectdemocracy.org
catherine.chen@protectdemocracy.org
amit.agarwal@protectdemocracy.org

Eve H. Cervantez*
Stacey M. Leyton*
Matthew J. Murray*



Connie K. Chan*
Juhyung Harold Lee*
Jonathan Rosenthal*
ALTSHULER BERZON LLP
177 Post St., Suite 300
San Francisco, CA 94108
Tel: (415) 421-7151
Fax (415) 362-8064
ecervantez@altber.com
sleyton@altber.com
mmurray@altber.com
cchan@altber.com
hlee@altber.com
jrosenthal@altber.com

Richard Primus*
The University of Michigan Law School
(institutional affiliation provided for identification
purposes only; not representing the University)
625 S. State Street
Ann Arbor, MI 48109
Tel: (734) 647-5543
Fax: (734) 764-8309
PrimusLaw1859@gmail.com

**Pro hac vice* application granted, pending, or
forthcoming

Counsel for Plaintiffs