

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

AMERICAN ACADEMY OF PEDIATRICS, *et al.*,

Plaintiffs,

vs.

ROBERT F. KENNEDY, JR., in his official
capacity as Secretary of the Department of Health
and Human Services, *et al.*,

Defendants.

Case No. 1:25-cv-11916

**PLAINTIFFS' MOTION TO FILE DECLARATIONS IN SUPPORT OF MOTION FOR
PRELIMINARY INJUNCTION AND DECLARATORY RELIEF AND REQUEST FOR
EXPEDITED CONSIDERATION UNDER SEAL**

Pursuant to Local Rule 7.2, Plaintiffs submit this motion (the “Motion”) to file two declarations in support of their Motion for Preliminary Injunction and Declaratory Relief and Request for Expedited Consideration (the “PI Motion”) under seal. Each declaration Plaintiffs seek to file under seal will be provided to the Court. The would-be-declarants are practicing physicians who oppose the Secretary of Health and Human Services, Robert F. Kennedy, Jr.’s May 19, 2025 directive to rescind a previous recommendation that healthy pregnant women and healthy children between the ages of 6 months and 17 years old routinely get vaccinated against Covid-19. The would-be-declarants seek to file their declarations under seal to protect their identities from retaliation. The would-be-declarants are non-parties to the above-captioned action. The accompanying Memorandum sets forth the reasons for sealing the declarations as exhibits to the PI Motion. Plaintiffs’ counsel contacted Defendants’ counsel and Defendants’ counsel opposes this Motion.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court grant their Motion and permit them to file two declarations in support of their Motion for Preliminary Injunction and Declaratory Relief and Request for Expedited Consideration under seal.

Dated: July 28, 2025

Respectfully submitted,

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**LOCAL RULE 7.1 CERTIFICATE REGARDING PLAINTIFFS' MOTION TO FILE
DECLARATIONS IN SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION
AND DECLARATORY RELIEF AND REQUEST FOR EXPEDITED CONSIDERATION
UNDER SEAL**

Per Local Rule 7.1, counsel for Plaintiffs state that they conferred with counsel for Defendants, listed below, via email on July 28, 2025 and requested Defendants position on this Motion. Counsel for Defendants stated that Defendants oppose Plaintiffs' Motion to File Declarations in Support of Motion for Preliminary Injunction and Declaratory Relief and Request for Expedited Consideration Under Seal.

/s/ Elizabeth J. McEvoy

Elizabeth J. McEvoy (BBO No. 683191)

CERTIFICATE OF SERVICE

I hereby certify that this document was filed through the ECF system and served upon the following parties by email on this 28th day of July 2025:

Robert F. Kennedy, Jr., in his official capacity
as Secretary of Health and Human Services

Marty Makary, in his official capacity as
Commissioner of the Food and Drug
Administration

Jay Bhattacharya, in his official capacity as
Director of the National Institutes of Health

Matthew Buzzelli, in her official capacity as
Acting Director Centers for Disease Control
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Case No. 1:25-cv-11916

**MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO FILE
DECLARATIONS IN SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION
AND DECLARATORY RELIEF AND REQUEST FOR EXPEDITED CONSIDERATION
UNDER SEAL**

Pursuant to Local Rule 7.2, Plaintiffs respectfully request leave to file two exhibits to Plaintiff's Motion for Preliminary Injunction and Declaratory Relief and Request for Expedited Consideration (the "PI Motion") under seal. The declarations at issue (the "Declarations") are statements made by practicing physicians whose practices and patients have been harmed by Secretary of Health and Human Services, Robert F. Kennedy, Jr.'s, May 19, 2025 directive (the "Secretarial Directive") rescinding the recommendation that healthy pregnant women and health children ages 6 through 17. The two Declarants at issue have a reasonable fear of harassment, physical and emotional harm, if they are forced to reveal their identities in light of the allegations and issues in the above-captioned lawsuit. As discussed more fully below, Declarants' privacy interests outweigh any marginal benefit to public access to their identities and granting Plaintiffs' request will not prejudice Defendants in any way because both Defendants and the Court will be furnished unredacted copies of the declarations with the Declarants' full legal names under seal.

LEGAL STANDARD

The public’s right to access to judicial records is not absolute. *See Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 598 (1978). District courts have discretion to seal documents and exercise that discretion by balancing the competing interests at stake on a case-by-case basis. *See United Air Lines, Inc. v. Allen*, 645 F.Supp.2d 34, 36 (D. Mass. Apr. 24, 2009); *FTC v. Standard Fin. Mgmt. Corp.*, 830 F.2d 404, 410–11 (1st Cir. 1987). Protecting third-parties’ privacy rights is “a venerable common law exception to the presumption of access” that “weigh[s] heavily in a court’s balancing equation.” *See United States v. Kravez*, 706 F.3d 47, 62 (1st Cir. 2013); *see e.g., Am. Ass’n of Univ. Profs. v. U.S. Dep’t of Justice*, Case No. 1:25cv-1091, ECF No. 3 (D. Mass. Apr. 11, 2025).

ARGUMENT

Sealing the Declarations is warranted in this instance to protect Declarants from the personal, professional, and physical retaliation that is likely to occur should Declarants’ names be made publicly available. Unfortunately, politically motivated violence is on the rise in America. *See e.g., The growing list of political violence in the U.S.*, PBS NEWS (Apr. 14, 2025) <https://www.pbs.org/newshour/politics/the-growing-list-of-political-violence-in-the-u-s>; *see also, Understanding the root causes and possible solutions for rising political violence*. PBS News. (June 17, 2025) <https://www.pbs.org/newshour/show/understanding-the-root-causes-and-possible-solutions-for-rising-political-violence> (reporting that, according to experts, increased polarization and heated rhetoric from public figures is exacerbating a trend of targeted political violence in the United States). Accordingly, Declarants reasonably fear that filing a declaration publicly in support of evidence-based studies showing the efficacy and safety of Covid-19 vaccines – and the harms that will befall the American people, including American women and children, if

the Secretarial Directive is permitted to stand—will make Declarants targets for public backlash. Given the recent events, this backlash is likely to include harassment, professional attacks, and possible violence. Declarants fear not only for themselves, but for their families, co-workers, and patients who will be at risk of political, personal, emotional, and even physical backlash as a result of Declarants' statements in support of Plaintiffs' Motion, especially given the media attention this case has already garnered and is likely to continue to garner.

Declarants also fear the institutions for whom they work may reject any perceived association with such a high-profile litigation against Defendants; accordingly, Declarants have a reasonable fear of retaliation by their employer which would be realized if they are forced to proceed with filing their declarations on the public record. *E.g., Am. Ass'n of Univ. Profs. v. U.S. Dep't of Justice*, Case No. 1:25-cv-10910, ECF No. 10 (D. Mass. Apr. 14, 2025) (permitting the plaintiffs to file affidavits of professors fearing retaliation by their employing academic institution in support of their motion for a temporary restraining order against the United States Department of Justice under seal).

By contrast, the Defendants will not be prejudiced by filing the Declarations under seal because they will have access to the Declarants' full legal names. The public's interest in open courts will not be materially injured by permitting the Plaintiffs to file the Declarations under seal because the Declarants are not themselves parties to the litigation and Plaintiffs are filing many declarations in support of their Motion that will be completely publicly available. *See e.g., id.*

Accordingly, Declarants' privacy rights sufficiently outweigh the presumptive right of public access to their identities.

CONCLUSION

For these reasons, Plaintiffs' Motion to File Declarations in Support of Motion for Preliminary Injunction and Declaratory Relief and Request for Expedited Consideration Under Seal should be granted.

Dated: July 28, 2025

Respectfully submitted,

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