

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Thurgood Marshall U.S. Courthouse 40 Foley Square, New York, NY 10007 Telephone: 212-857-8500

MOTION INFORMATION STATEMENT

Docket Number(s): 25-1529

Caption [use short title]

Motion for: Court to Seal or Alternatively Temporarily Remove from Public Docket

American Association of University Professors and American Federation of Teachers,

Set forth below precise, complete statement of relief sought: Appellants seek order immediately sealing Appellees' brief (Dkt. 94.1), filed 1/28/26, and directing Appellees to file redacted brief consistent with Court's 10/14/25 sealing order (Dkt. 73.1). Alternatively, Appellants seek temporary removal of brief from public docket, which is unopposed

v. United States Department of Justice, et al.

MOVING PARTY: Plaintiffs/Appellants OPPOSING PARTY: Defendants/Appellees

- Plaintiff Defendant Appellant/Petitioner Appellee/Respondent

MOVING ATTORNEY: Eve H. Cervantez OPPOSING ATTORNEY: Allison Rovner

Altshuler Berzon LLP United States Attorneys' Office, S.D.N.Y. 177 Post Street, Suite 300, San Francisco, CA 86 Chambers Street, 3rd Floor, New York, NY 10007 94530; (415) 421-7151; ecervantez@altber.com (212)637-2691 allison.rovner@usdoj.gov

Court- Judge/ Agency appealed from: U.S.D.C. S.D.N.Y., Hon. Mary Kay Vyskocil

Please check appropriate boxes: Has movant notified opposing counsel (required by Local Rule 27.1): Yes No (explain):

FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND INJUNCTIONS PENDING APPEAL: Has this request for relief been made below? Has this relief been previously sought in this court? Yes No Yes No

Opposing counsel's position on motion: Unopposed Opposed Don't Know Does opposing counsel intend to file a response: Yes No Don't Know

Requested return date and explanation of emergency: Relief is requested immediately to avoid divulging identity of witness who filed sealed declaration.

Is the oral argument on motion requested? Yes No (requests for oral argument will not necessarily be granted)

Has the appeal argument date been set? Yes No If yes, enter date:

Signature of Moving Attorney: /s/ Eve H. Cervantez Date: 01/29/2026 Service: Electronic Other [Attach proof of service]

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

AMERICAN ASSOCIATION OF
UNIVERSITY PROFESSORS,

and

AMERICAN FEDERATION OF
TEACHERS,

Plaintiffs-Appellants,

v.

UNITED STATES DEPARTMENT OF
JUSTICE, et al.,

Defendants-Appellees.

Case No. 25-1529

**APPELLANTS’
EMERGENCY MOTION
TO SEAL OR
ALTERNATIVELY
TEMPORARILY
REMOVE FROM
PUBLIC DOCKET**

**IMMEDIATE RELIEF
REQUESTED**

MOTION TO SEAL UNREDACTED BRIEF

Movants-Appellants American Association of University Professors and American Federation of Teachers (“Plaintiffs”) respectfully move this Court to immediately seal the brief filed on January 28, 2026 (Dkt. No. 94.1) by Defendants-Appellees United States Department of Justice, et al (“Defendants’ Brief”) because it references material that this Court has already ruled should be sealed. See October 14, 2025 Order (Dkt. No. 73.1). The material contained in

Defendants' Brief should be sealed to protect a witness from potential retaliation, as explained in Plaintiffs' original Memorandum in Support of Appellants' Unopposed Motion to Seal (Dkt. No. 31.2). Because public knowledge of the witness's role in this case could expose the witness to retaliation from both Defendants and Columbia University (Dkt. No. 31.2 at 2, 4, 7-10), Plaintiffs respectfully request that this Court immediately seal Defendants' Brief, and order Defendants to file a redacted version of their brief for public view.

Portions of Defendants' brief cite to the sealed Declaration of Witness J in ways that reveal the particular information that this Court has already ordered to be sealed, which could allow for the very retaliation that sealing was designed to avoid. As described in Plaintiffs' Memorandum in Support of Unopposed Motion to Seal Declaration and Unredacted Brief (Dkt No. 31.2), Witness J fears retaliation from both Defendants and Columbia University if their identity is revealed. Dkt. No. 31.2 at 2, 4, 7-10. For that reason, this Court already ruled that the Declaration of Witness J, and portions of Plaintiffs' brief summarizing and quoting from that Declaration, should be filed under seal. Dkt. No. 73.1. Because Defendants' Brief summarizes material that this Court has already ruled should be sealed, in such a way that one could determine the identity of Witness J, Defendants' Brief should immediately be sealed for the same reasons that this

Court originally granted Plaintiffs' Unopposed Motion to Seal, and Defendants should be ordered to file a redacted version of Defendants' Brief for public view.

Plaintiffs have contacted counsel for Defendants who have stated that they do not oppose the Court's temporary removal of Defendants' Brief from the docket. Accordingly, if the Court is not inclined to seal Defendants' Brief immediately, Plaintiffs respectfully request that the Court immediately remove Defendants' Brief from the public docket temporarily until the parties have an opportunity to further meet and confer about Plaintiffs' request that portions of Defendants' Brief that refer to the sealed Declaration of Witness J be filed under seal.

Dated: January 29, 2026

Respectfully submitted,

By: /s/ Eve H. Cervantez

Eve H. Cervantez

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

mmurray@altber.com

cchan@altber.com
hlee@altber.com
jrosenthal@altber.com

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

Katie Schwartzmann
Protect Democracy Project
201 St. Charles Avenue, Ste. 114
New Orleans, LA 70170
Tel: (202) 579-4582
Fax: (202) 769-3176
katie.schwartzmann@protectdemocracy.org

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

Counsel for Plaintiffs-Appellants

CERTIFICATE OF SERVICE

I hereby certify that on January 29, 2026, I filed the foregoing Motion to Seal with the Clerk of Court for the United States Court of Appeals for the Second Circuit using the ACMS system, which will send notice of such filing to all counsel of record in compliance with Local Rule 25.1(h)(2).

Dated: January 29, 2026

By: /s/ Eve H. Cervantez

Eve H. Cervantez
ALTSHULER BERZON LLP
177 Post St., Suite 300
San Francisco, CA 94108
Tel: (415) 421-7151
Fax (415) 362-8064
ecervantez@altber.com

Counsel for Plaintiffs-Appellants