

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND  
(Northern Division)**

STEPHEN V. KOLBE, <i>et al.</i> ,	)	
	)	
<i>Plaintiffs,</i>	)	Case No.: 1:13-cv-02841-CCB
	)	
v.	)	
	)	
MARTIN O'MALLEY, <i>et al.</i> ,	)	
	)	
<i>Defendants.</i>	)	

**MOTION FOR PROTECTIVE ORDER SEALING PORTIONS OF THE  
RECORD DESIGNATED BY PLAINTIFFS AS “CONFIDENTIAL”**

Pursuant to Local Rules 104.13(c) and 105.11, and pursuant to the Stipulated Order Regarding Confidentiality of Discovery Material and Inadvertent Disclosure of Privileged Material entered by the Court on November 21, 2013, the defendants move for an order sealing portions of a deposition transcript of plaintiffs’ expert discussing the data on which he relied in formulating his opinions:

1. On November 21, 2013, the Court entered a paperless order (ECF No. 28) granting the parties’ joint motion for a Stipulated Order Regarding Confidentiality of Discovery Material and Inadvertent Disclosure of Privileged Material (“Confidentiality Order”).

2. The Confidentiality Order allows the parties to designated as confidential portions of deposition testimony they “in good faith believe[] . . . contains sensitive personal information . . . .” (ECF No. 27-1, ¶ 1(a), (b).)

3. During the course of discovery, the plaintiffs designated as confidential information under the Confidentiality Order certain data on which their expert witness, Professor Mark Gius, relied in formulating his opinion. The plaintiffs further designated as confidential passages of Professor Gius’s deposition transcript discussing that data.<sup>1</sup>

4. Upon information and belief, the plaintiffs designated that testimony confidential on the basis that Professor Gius considers it to be confidential.

5. The defendants are uncertain as to why the information is deemed confidential. As a result, the defendants are not certain whether there is an alternative to sealing that would provide the same protection sought by the plaintiffs.

6. As Exhibit 84 to their combined reply memorandum in support of their motion for summary judgment and response memorandum in opposition to the plaintiffs’ cross-motion for summary judgment (ECF No. 62), the defendants included a redacted copy of the deposition testimony of Professor Gius. The defendants have included that testimony as an exhibit solely to ensure there is a complete record in light of the fact that the plaintiffs included Professor Gius’s report as an exhibit to their cross-motion.

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<sup>1</sup> The extent of the plaintiffs’ designation is somewhat unclear. The reporter marked certain portions of the discussion of that data confidential, but not others. In an abundance of caution, the defendants have redacted the entire portion of the transcript discussing the data at issue.

7. The Confidentiality Order requires that any party who files with the Court any materials or papers containing information designated as confidential by any other party must file it under seal with the Court, and simultaneously file a motion to allow the materials to be filed under seal, “[e]ven if the filing party believes that the materials subject to the Confidentiality Order are not properly classified as ‘Confidential.’”

8. Pursuant to the Confidentiality Order, the defendants: (a) have, in the version of Exhibit 84 filed publicly, redacted or omitted all discussion of the data on which Mr. Gius relied in formulating his opinions; (b) will file under seal the unredacted version of the redacted or omitted pages; (c) and are making this motion.

A proposed order is attached.

DOUGLAS F. GANSLER  
Attorney General of Maryland

/s/

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