

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION**

ACLU OF TENNESSEE,	)	
	)	
Intervening Plaintiff,	)	
v.	)	No. 2:17-cv-02120-JPM-dkv
	)	
THE CITY OF MEMPHIS,	)	
	)	
Defendant.	)	

**DEFENDANT'S MOTION TO FILE EXHIBITS TO REPLY TO PLAINTIFF'S  
RESPONSE TO MOTION FOR SUMMARY JUDGMENT ON CIVIL CONTEMPT  
UNDER SEAL**

Defendant, City of Memphis ("the City"), moves this Court for permission to keep certain exhibits attached to Defendant's Reply to Defendant's Response to Plaintiff's Motion for Summary Judgment on Civil Contempt (ECF No. 102) under seal.

During the course of discovery in this case, a number of documents and deposition transcripts have been designated as "Confidential" or "Attorneys' Eyes Only" by one or both of the remaining parties to the litigation pursuant to the Protective Order (ECF No. 52.)

In connection with the filing of the responses to various dispositive motions, the City respectfully requests that some of its exhibits be kept under seal to ensure that claims of privilege and confidential information as designated by the parties are not inadvertently disclosed.

The parties have consulted, through counsel, and it is agreed that neither the Plaintiff nor Defendant have objection to the filing of documents under seal for the purposes described herein, although the ultimate issue of whether particular disputed documents are privileged or eligible to remain under seal is reserved by the Court.

**LAW AND ARGUMENT**

The courts have long recognized a strong presumption in favor of openness as to court records. The burden of overcoming that presumption is borne by the party that seeks to seal them. *Id.* at 305. “Only the most compelling reasons can justify non-disclosure of judicial records.” *In re Knoxville News–Sentinel Co.*, 723 F.2d 470, 476 (6th Cir. 1983). The greater the public interest in the litigation's subject matter, the greater the showing necessary to overcome the presumption of access. *Id.* Where a party can show a compelling reason why certain documents or portions thereof should be sealed, the seal itself must be narrowly tailored to serve that reason. *Id.* The proponent of sealing therefore must analyze in detail, document by document, the propriety of secrecy, providing reasons and legal citations.” *Id.* at 305-06 (citations omitted).

The City submits the following list of documents filed under seal with its Reply to Plaintiff's Response to Motion for Summary Judgment on Contempt (ECF No. 102). For each document listed, the City either has no objection to the document being unsealed or is arguing why the exhibit should remain sealed.

<b>DOCUMENT</b>	<b>DESCRIPTION</b>	<b>SEALED OR UNSEALED</b>	<b>ARGUMENT</b>
ECF No. 102	REPLY TO RESPONSE TO MOTION FOR SUMMARY JUDGMENT	Unsealed	
Cumulative Ex. A	News Articles	Unsealed	
Cumulative Ex. B	News Articles	Unsealed	
Ex. C	News Article	Unsealed	
Ex. D	Joint Intelligence Briefing	Sealed	This Exhibit contains information pertaining to a

			law enforcement investigation of persons suspected of criminal activity. It also identifies the persons suspected of criminal activity, and exposure could harm their reputation.
Ex. E	News Article	Unsealed	
Ex. F	All Shook Up Presentation	Sealed	This Exhibit contains information pertaining to a law enforcement investigation of persons suspected of and arrested for criminal activity. It also identifies the persons suspected of criminal activity, and exposure could harm their reputation.
Ex. G	News Article	Unsealed	
Ex. H	Depositions Excerpts of Albert Bonner	Unsealed	
Ex. I	News Article	Unsealed	
Ex. J	Presentation on Valero Protest Arrests	Sealed	This Exhibit contains information pertaining to a law enforcement investigation of persons suspected of and arrested for criminal activity. It also identifies the persons suspected of criminal activity, and exposure could harm their reputation.
Ex. K	News Article	Unsealed	
Ex. L	Escort List Vetting Document	Unsealed	

The documents designated as "SEALED" in the above chart should be sealed because they identify several persons suspected of, and in several instances, arrested for, criminal activity, and their disclosure could harm the reputations of those persons.

For these reasons, the City respectfully requests that the documents marked as "Sealed" remain under seal, and the documents marked as "Unsealed" be unsealed.

Respectfully submitted,

/s/ Jennie Silk

Buckner Wellford (#TN 9687)  
R. Mark Glover (#TN 6807)  
Jennie Vee Silk (#TN 35319)  
BAKER, DONELSON, BEARMAN,  
CALDWELL & BERKOWITZ, P.C.  
165 Madison Avenue, Suite 2000  
Memphis, Tennessee 38103  
Telephone: 901.577.2152  
Fax: 901.577.0786  
Email: bwellford@bakerdonelson.com  
mglover@bakerdonelson.com  
jsilk@bakerdonelson.com

*Attorneys for Defendant, The City of Memphis*

**CERTIFICATE OF SERVICE**

I hereby certify that on July 17, 2018, the foregoing was served via the Court's ECF system to the following counsel of record:

Thomas H. Castelli  
Mandy Floyd  
ACLU Foundation of Tennessee  
P.O. Box 120160  
Nashville, Tennessee 37212

/s/ Jennie Silk