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7 **UNITED STATES DISTRICT COURT**

8 **CENTRAL DISTRICT OF CALIFORNIA**

9 LIGAYA RONDUEN, et al., on behalf of
10 themselves and all others similarly
situated,

11 Plaintiffs,

12 v.

13 THE GEO GROUP, INC., a Florida
14 corporation, and SPARTAN CHEMICAL
COMPANY, INC., an Ohio corporation,
15 Defendants.
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Case No.: 23-cv-00481-JGB-ACCV

**NOTICE OF MOTION AND
MOTION TO UNSEAL COURT
RECORDS; MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT THEREOF**

Date: December 7, 2026

Time: 9:00 am

Courtroom: 1 (Riverside)

Judge: Hon. Jesus G. Bernal

1 **NOTICE OF MOTION**

2 TO THIS HONORABLE COURT AND TO ALL PARTIES AND THEIR
3 ATTORNEYS OF RECORD:

4 Please take notice that on December 7, 2026, at 9:00 am, or as soon thereafter
5 as the matter may be heard, in Courtroom 1 of the United States District Court,
6 Central District of California, 3470 Twelfth Street, Riverside, CA 92501, the Inland
7 Coalition for Immigrant Justice (“ICIJ” or “Proposed Intervenor”) will and hereby
8 does move to unseal most documents related to Plaintiffs’ applications to seal
9 located at Dkts. 314, 335, and 444. The sealed filings ICIJ is moving to unseal are
10 Dkts. 315 and 336, and all attachments except for Dkts. 336-49. *See* Ex. 1, Tables
11 of Sealed Materials. Further, ICIJ moves this Court to deny-in-part the pending
12 application to seal at Dkt. 444, such that Dkts. 445, 445-1, 445-2, 445-3, 445-4,
13 445-8, 445-9, 445-10, 445-11, 445-12, and 445-13 are unsealed.

14 In sum, ICIJ does not move to unseal Dkts. 336-49, 445-3, 445-4, 445-5, 445-
15 6, and 445-7. *See* Ex. 1 at 8. ICIJ does not oppose narrow redactions that Plaintiffs
16 have indicated they will propose to protect personally identifiable information (PII)
17 or protected health information (PHI) in the Artmann Declaration (Dkt. 336) that
18 are consistent with Plaintiffs’ related application to seal (Dkt. 335). *See* Decl. of
19 Jacqueline Arkush ¶¶ 5–6. As such, Plaintiffs do not oppose ICIJ’s motion to unseal.
20 *Id.*

21 On September 1, 2026, consistent with Local Rule 7-3, counsel for Proposed
22 Intervenor initiated meet and confer with all Parties and continued conferring for
23 one month. *Id.* ¶¶ 4, 15, 16. Defendant Spartan Chemical Company does not oppose
24 ICIJ’s motion to unseal with regard to Dkts. 315-2, 315-13, 315-14, 315-34, 315-

1 45, 336-7, 336-18, 336-35, 336-36, 336-48, 336-60, and 336-66. *Id.* ¶ 15; *see also*
2 Ex. 1 at 8. Defendant GEO Group did not provide a position on this motion, despite
3 multiple meetings and requests. *See* Arkush Decl. ¶¶ 4, 9, 12, 13, 16.

4 This Motion is based on (1) the accompanying Memorandum of Points and
5 Authorities and exhibit, (2) the Notice of Motion and Memorandum of Points and
6 Authorities in Support of Proposed Intervenor’s Motion to Intervene for the Limited
7 Purpose of Unsealing Court Records (Dkt. 543) and declarations filed in support of
8 that Motion, and (3) the entire record in this action.

9
10 Dated: October 5, 2026

Submitted,

11 PUBLIC JUSTICE

12 /s/ Jacqueline Arkush

Jacqueline Arkush (SBN 365861)

13
14 *Counsel for Proposed Intervenor*

Inland Coalition for Immigrant Justice

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **INTRODUCTION**

3 Adelanto Immigration and Customs Enforcement Processing Center is one
4 of many notorious immigration detention centers run by government contractor The
5 GEO Group. Once functionally closed by court order, the facility has returned to
6 full capacity and so, too, have the allegations of “unsafe and abusive” conditions.
7 *See L.T. v. U.S. Immigr. & Customs Enf’t*, No. 5:26-CV-00322-SSS-SPX, 2026 WL
8 1270746, at *2 (C.D. Cal. May 5, 2026). It continues to receive new contracts and
9 have previous ones renewed, despite the never-ending flow of alleged constitutional
10 violations. *See id.* at *7 (allowing claims against ICE to proceed because plaintiffs
11 plausibly alleged it had “notice of punitive, prison-like conditions at Adelanto as
12 well as inadequate health care at the facility”). Today, former GEO executive David
13 Venturella oversees ICE, only increasing the appearance of an unaccountable and
14 corrupt contracting system.¹

15 In this case involving dangerous and abusive actions by GEO at Adelanto,
16 over one hundred records are “hidden from public view, for no discernable reason”
17 and without regard for the well-established right of access to court records. *Binh*
18 *Hoa Le v. Exeter Fin. Corp.*, 990 F.3d 410, 417 (5th Cir. 2021). “[B]ecause ‘We the
19 People’ are not meant to be bystanders, the default expectation is transparency—
20 that what happens in the halls of government happens in public view.” *Id.* And for
21

22 _____
23 ¹ Billal Rahman, *ICE Makes 10 Changes to Detention Camp Standards: Full List*,
24 Newsweek (June 17, 2026), <https://www.newsweek.com/ice-makes-10-changes-detention-camp-standards-full-list-12083532>.

1 some of the records covered by this motion, the Parties agree that no reason for
2 sealing exists, and the public should be given access. For the remaining hundred-
3 plus records, this Court should refuse to allow GEO and its partners, like Spartan
4 Chemical Company, to disregard the public’s right to observe those acting on behalf
5 of their government and their courts. By unsealing the Defendants’ records that are
6 subject to this motion brought by Proposed Intervenor Inland Coalition for
7 Immigrant Justice (“ICIJ”), this Court can restore the appearance of fairness and the
8 hope for accountability.

9 BACKGROUND

10 Defendant GEO has contracted with ICE to run Adelanto since 2011. Over
11 the past fifteen years, there have been numerous lawsuits, investigations, and
12 protests about the conditions inside Adelanto.² GEO’s response to the COVID-19
13 pandemic was particularly egregious, “the effects of which continue today.” First
14 Am. Compl., Dkt. 152 ¶ 18.

15 Defendant Spartan had provided GEO with HDQ Neutral, a pesticide, for
16 many years to use as a general disinfectant. Dkt. 338-1 ¶¶ 16–17. As the pandemic
17 took hold, GEO started “purchasing significantly more of the product and using it
18 at an increased frequency and concentration” in a horribly misguided effort to
19 prevent the spread of COVID-19. Spartan consequently saw its business
20

21
22 ² “ICE continues to utilize facilities that demonstrate a pattern of violating [their] own
23 detention standards. Adelanto is a perfect example.” Staff of H.R. Comm. on
24 Homeland Sec., 116th Cong., *ICE Detention Facilities: Failing to Meet Basic
Standards of Care* 11–12 (Sept. 21, 2020), <https://bit.ly/4c4CY6K> (summarizing
oversight bodies’ previous findings).

1 boom. Dkt. 152 ¶ 19. Almost immediately after the dramatic increase in GEO's use
2 of the pesticide, people detained began to complain about the near constant spraying
3 of HDQ Neutral inside Adelanto and its impacts. *See* Order Granting-in-Part,
4 Denying-in-Part, Deferring-In-Part Defs.' Mot. Summ. J., Dkt. 491 at 5–7. GEO
5 sprayed HDQ Neutral everywhere and at all times, including in meal areas while
6 people were eating and in cells while people were sleeping. Dkt. 318 at 10.
7 Throughout the living areas, there was “a lingering mist” in the air and a “residue
8 that persisted on surfaces.” *Id.* at 8, 11. As early as May 2020, people detained
9 inside Adelanto reported to ICE that “[t]he toxic spray they are using is making
10 everyone inside very sick.”³ GEO was “continuously spraying” Spartan's product,
11 and with “no fresh air to breathe in the room,” people were “coughing up blood”
12 and at least “[o]ne person fainted.” *Id.* In response to complaints of chemical burns,
13 bloody noses, burning eyes, and difficulty breathing, management “did absolutely
14 nothing other than to continue the use of HDQ Neutral.” *Roman v. Wolf*, No. EDCV
15 20-00768 TJH (PVCX), 2020 WL 5797918, at *5 (C.D. Cal. Sept. 29, 2020).

16 People detained, members of the public, and government officials all
17 attempted to obtain answers from GEO about its use of HDQ Neutral and the extent
18 of Spartan's oversight. Inside Adelanto, people were repeatedly told that “[staff]
19 were ordered to spray in such a manner and frequency because it was required to
20 kill the COVID-19 virus.” Dkt. 491 at 7. Outside Adelanto, GEO was also
21
22

23 ³ Letter from Freedom for Immigrants and Inland Coal. for Immigrant Justice to ICE
24 and DHS 2 (May 21, 2020) <https://embed.documentcloud.org/documents/6923000-Adelanto-CRCL-Complaint-052120/>.

1 misrepresenting and obscuring its use of HDQ Neutral. In July 2020, GEO’s CEO
2 testified that strict safety guidelines for the product were being followed and no
3 adverse effects had been reported; yet, two weeks later, the EPA conducted a “for
4 cause” investigation at Adelanto in response to health complaints.⁴ The EPA
5 Investigators were told by GEO that it was applying HDQ Neutral at a doubled
6 concentration set and approved by Spartan, but improper under official regulations.⁵
7 During and after the investigation, GEO refused the EPA’s request to virtually tour
8 Adelanto and withheld documents for over a month.⁶ Ultimately, GEO was sent a
9 brief Notice of Warning that outlined the violations occurring and the discrepancies
10 between what GEO claimed was happening and the lived experiences of the people
11 it was detaining.⁷ No further action was taken. Now, six years later, GEO and
12 Spartan are again being permitted to hide the extent of their alleged wrongdoing
13 from the public.

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17 ⁴ *Oversight of ICE Detention Facilities: Examining ICE Contractors’ Response to*
18 *Covid-19, Hearing Before the Subcomm. on Border Sec., Facilitation, and Operations*
19 *of the H.R. Comm. on Homeland Sec.*, 116th Congress 83 (2020) (questioning of
20 George C. Zoley, CEO, GEO Group); United States EPA, Inspection Report:
Adelanto ICE Processing Center 2 (2020), [https://earthjustice.org/wp-](https://earthjustice.org/wp-content/uploads/final_inspection_report_1.pdf)
[content/uploads/final_inspection_report_1.pdf](https://earthjustice.org/wp-content/uploads/final_inspection_report_1.pdf).

21 ⁵ United States EPA, *supra* note 4, at 7–8, 11.

22 ⁶ *Id.* at 11.

23 ⁷ Notice of Warning from the United States EPA to George C. Zoley, CEO, GEO
24 Group (Mar. 2, 2021), [https://earthjustice.org/wp-](https://earthjustice.org/wp-content/uploads/now_geo_final_1.pdf)
[content/uploads/now_geo_final_1.pdf](https://earthjustice.org/wp-content/uploads/now_geo_final_1.pdf).

RELEVANT PROCEDURAL HISTORY

Plaintiffs Wilfredo Gonzalez Mena, Carlos Castillo, Somboon Phaymany, Yolanda Mendoza, Ligaya Ronduen, Miriam Scheetz, and Cesar Hernandez Carrillo initiated this class action against Defendant GEO in March 2023, asserting six tortious causes of action arising from the continuous and hazardous spraying of HDQ Neutral described above. Dkt. 1. Plaintiffs filed an amended complaint in January 2025, adding Spartan as an additional defendant. Dkt. 152. After engaging in discovery, Plaintiffs moved for class certification. Dkt. 318. Concurrently, Defendants individually moved for summary judgment. Dkts. 317, 320. Dozens of court-filed documents have been sealed, and briefs redacted, throughout the litigation, including over one hundred documents relating to class certification and summary judgment. *See e.g.*, Dkts. 315, 336.

ICIJ, with Plaintiffs' consent,⁸ seeks to unseal Defendants' documents and the unredacted briefs that reference them, which were sealed or redacted pursuant to three applications to seal. Pls.' Appl., Dkts. 314, 335, 444; Ex. 1, Tables of Sealed Materials. The first application was filed by Plaintiffs and relates to documents submitted in support of their motion for class certification. Dkt. 314. Every document covered by that application was produced by either GEO or Spartan and marked confidential or highly confidential pursuant to a blanket

⁸ ICIJ does not seek to unseal Dkts. 336-49, 445-3, 445-4, 445-5, 445-6, and 445-7, which are the records that Plaintiffs asserted contain PII or PHI and argued should be sealed. *See* Dkt. 335 at 6; Dkt. 444 at 2-3; Arkush Decl. ¶ 5. ICIJ does not oppose additional narrow redactions that Plaintiffs may assert are necessary to protect their privacy and are consistent with arguments already made to this Court. Arkush Decl. ¶ 6.

1 protective order. *Id.*; Ex. 1 at 1–2; *see* Protective Order, Dkt. 166. The second
2 application was also filed by Plaintiffs and relates to documents submitted in
3 support of their oppositions to Defendants’ motions for summary judgment. Dkt.
4 335. Similar to the first application, all but one document covered by this
5 application was produced by either GEO or Spartan and marked confidential or
6 highly confidential pursuant to the blanket protective order. Dkt. 335; Ex. 1 at 3–6.
7 The Court granted both of these applications to seal in full without making any
8 factual findings. Dkt. 365 (granting Dkt. 314); Dkt. 491 (granting Dkt. 335).

9 The third application was also filed by Plaintiffs and relates to documents
10 submitted in support of Plaintiffs’ opposition to various of Defendants’ pretrial
11 motions in limine. Dkt. 444. Roughly half of documents covered by this application
12 were produced by GEO and marked confidential or highly confidential pursuant to
13 the blanket protective order. Ex. 1 at 7. This application remains pending before the
14 Court.

1 **ARGUMENT**

2 This Court should unseal the over one hundred records that are currently
3 hidden from the public for no discernable reason. The law is clear that court records
4 are presumptively public. Rooted in both common law and the First Amendment,
5 the presumption of access “is justified by the interest of citizens in ‘keep[ing] a
6 watchful eye on the workings of public agencies.’” *Kamakana v. City & County of*
7 *Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (citing *Nixon v. Warner Commc’ns,*
8 *Inc.*, 435 U.S. 589, 597–99 (1978)); *Courthouse News Service v. Planet*, 947 F.3d
9 581, 591 (2020) (holding that the First Amendment right of access applies to civil
10 proceedings and documents). Such access is “often important to a full
11 understanding of the way in which the judicial process and the government as a
12 whole are functioning.” *Associated Press v. U.S. Dist. Ct. for Cent. Dist. of Cal.*,
13 705 F.2d 1143, 1145 (9th Cir. 1983) (citation modified); *see also San Jose Mercury*
14 *News, Inc. v. U.S. Dist. Ct. for N. Dist. of Cal.*, 187 F.3d 1096, 1101–02 (9th Cir.
15 1999) (explaining “unbroken string of authorities” supporting access to court
16 records in civil cases).

17 The principles of open government that underpin the public’s right of access
18 dictate the rigorous process and analysis that *should* occur when sealing court
19 records. *See generally California ex rel. Lockyer v. Safeway, Inc.*, 355 F. Supp. 2d
20 1111, 1124–25 (C.D. Cal. 2005). Namely, to permit sealing of court records, a court
21 must analyze whether the proponent of secrecy has overcome the presumption of
22 access. *See Kamakana*, 447 F.3d at 1179. In the Central District of California, that
23 process is delineated in Local Rule 79-5, which provides a straightforward
24 procedure that litigants must follow to assist the court in determining whether

1 sealing is proper. L.R. 79-5.2.2. But here, for the records sought by ICIJ,⁹ no such
2 analysis occurred because no argument for sealing was made, and the local rule’s
3 process was not followed. Because GEO and Spartan did not comply with their
4 obligations under the local rule or with their agreement with Plaintiffs, they have
5 forfeited any arguments relating to why documents should remain sealed. Even if
6 the arguments were not forfeited, there is nothing in the record that suggests GEO
7 and Spartan could meet their burden of establishing compelling reasons for sealing
8 documents—including in this Court’s orders granting two of the applications to
9 seal. Rather, the scant information in the record shows that the functional reason for
10 sealing was the Parties’ protective order—which is categorically not a sufficient
11 reason to seal. *See Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1136
12 (9th Cir. 2003). Indeed, Spartan agrees that there is no reason to seal a dozen of its
13 currently hidden records, and that those documents should be unsealed. *See Arkush*
14 *Decl.* ¶ 15; *Ex. 1* at 8. For these reasons, this Court should unseal Dkts. 315, 335,
15 445 and all but six of the corresponding attachments. *See Ex. 1.*

16 **I. GEO AND SPARTAN CONSENTED TO PUBLIC FILING WHEN**
17 **THEY FORFEITED THEIR OPPORTUNITY TO JUSTIFY SEALING**

18 GEO and Spartan did not comply with Local Rule 79-5 or their agreement
19 with Plaintiffs, meaning they have now forfeited their opportunity to request that
20 documents be sealed and, as such, have consented to public filing. Beginning with
21 Local Rule 79-5, because it was Plaintiffs who submitted documents “previously
22 _____

23 ⁹ Again, ICIJ does not seek to unseal records that Plaintiffs have argued contain PII
24 or PHI, namely Dkts. 336-49, 445-3, 445-4, 445-5, 445-6, and 445-7. *See Dkt. 335* at
6; *Dkt. 444* at 2–3; *Arkush Decl.* ¶ 5.

1 designated as confidential by [Defendants] pursuant to a protective order,”
2 Defendants were required to file, within four days, proposed redactions and a
3 supporting declaration establishing how the standard for sealing was
4 met. L.R. 79-5.2.2(b)(i). Stipulated provisions of the protective order (Dkt. 166 at
5 1, 26) and Plaintiffs’ applications to seal reiterate that sealing is governed by Local
6 Rule 79-5.2.2(b), *see e.g.* Dkt. 314 at 1. Plaintiffs also made clear in their
7 applications that the main reason for the applications was Defendants’ designations
8 and that, under the Local Rule, Defendants were required to submit redactions and
9 a declaration within four days of the application’s filing. *See* Dkts. 335 at 1, 6–7;
10 444 at 1, 3, 5; L.R. 79-5.2.2(b)(i).

11 Despite having ample notice of the procedure, Defendants did not file
12 redactions or declarations and have not offered any explanation for missing the
13 deadline. The Rule is clear that failure to file the required documents “may be
14 deemed sufficient grounds for denying the Application.” *Id.*; *see Weil v. Neary*, 278
15 U.S. 160, 169 (1929) (explaining that local rules have “the force of law”). Given
16 that Defendants were well aware of their obligations and the consequences of not
17 fulfilling them, GEO and Spartan forfeited their opportunity to file proposed
18 redactions and supporting declarations.

19 Not only does GEO and Spartan’s failure to comply with the rule mean that
20 they have forfeited the opportunity to offer justifications for sealing, they have also
21 consented to public filing under the terms of the parties’ agreement. To “eliminate
22 or minimize” applications to seal in cases with protective orders, the filing party
23 must first confer with the designating party about the documents they intend to file
24 in order to determine which documents previously designated as confidential

1 require sealing. L.R. 79-5.2.2(b). In other words, a typical application to seal is
2 limited to documents that one or more parties believe should be sealed. Here,
3 however, the Parties agreed to forgo conferring about each document to avoid
4 having to “reevaluate their designations and redactions . . . while preparing to
5 file.” Dkt. 253-2 at 2–4. Instead, the filing party would provisionally seal *all*
6 materials initially designated as “Confidential” or “Highly Confidential” by another
7 party. *Id.* at 4; *see also* Dkts. 253 at 1; 314 at 1; 335 at 1–2. Then, along with a
8 supporting declaration, “the designating party would file redacted versions of
9 documents it wished to continue to designate as confidential within the 4 days
10 required by LR 79-5.2.2(b)(i).” Dkt. 253-1 ¶¶ 3, 4; *see also* Dkt. 253-2 at 4.
11 Plaintiffs appear to have complied with this procedure when Defendants applied to
12 seal documents that Plaintiffs had marked confidential but, as noted, Defendants
13 never did the same for Plaintiffs’ applications to seal Defendants “confidential”
14 documents. *See e.g.* Pls.’ Decl. Supp. Def.’s Appl., Dkt. 331 (submitting declaration
15 in support of sealing personal identifying information). Thus, by not filing any
16 proposed redactions or supporting declarations, Defendants were telling this Court
17 that they did not “wish[] to continue to designate” those documents as confidential
18 and that Plaintiffs could refile them publicly, as provided by the parties’ agreement.
19 Dkt. 253-1 ¶ 3; *See* Proposed Orders, Dkts. 314-4, 335-8 (directing Plaintiffs to
20 publicly file documents where Defendants did not establish compelling reasons for
21 sealing via declarations within four days).

22 In addition to the explicit agreement between the parties, Defendants
23 consented to public filing under the basic principles of motion practice. *See*
24 L.R. 7-12 (“The failure to file any required document . . . may be deemed consent

1 to the granting or denial of the motion.”). Generally, a party’s failure to provide a
2 response in a timely manner is treated as waiver and consent. *See Gwaduri v. I.N.S.*,
3 362 F.3d 1144, 1146–47 (9th Cir. 2004) (summarizing how courts may treat lack of
4 timely opposition to motions for attorney’s fees as a concession or a failure to carry
5 the burden of proof); *see also United States v. Warren*, 601 F.2d 471, 473 (9th Cir.
6 1979) (upholding lower court’s application of local rule where it treated the
7 government’s failure to respond as consent to dismissal of indictments); *Zapon v.*
8 *Costco Wholesale Corp.*, No. 2:20-cv-11415-ODW (RAOx), 2021 WL 3511202
9 (C.D. Cal. Aug. 10, 2021) (finding lack of timely opposition to motion to disqualify
10 counsel was waiver and consent to motion). Consistent with those principles, this
11 Court’s Standing Order emphasizes that failing to submit compliant declarations in
12 support of *ex parte* applications “ensures the application will be DENIED.”
13 Standing Order, Dkt. 17 ¶ 13; *see also* L.R. 7-19.

14 Thus, when they forfeited their opportunity to support Plaintiffs’
15 applications, GEO and Spartan also waived any opportunity to argue for sealing.
16 *See Vrugtman v. It’s Just Lunch Int’l LLC*, No. EDCV 20-2352 JGB (SPx),
17 2023 WL 6369765, at *5 (C.D. Cal. Aug. 25, 2023) (Bernal, J.) (denying filing
18 party’s application to seal materials because designating party never filed the
19 required declaration); *Gutierrez v. Converse Inc.*, No. CV 23-6547-KK-MARx,
20 2024 WL 3075256, at *3 (C.D. Cal. June 6, 2024) (ordering public filing due to
21 designating party’s failure to file a declaration supporting sealing). As discussed,
22 the Local Rules and the parties’ agreement provide a clear deadline, and Defendants
23 were aware of their obligation to support any desired sealing. Based on the publicly
24 available record, it does not appear that Defendants ever attempted to argue for

1 sealing any of their own materials. The Court should treat their inaction as a waiver.
2 *See Gwaduri*, 362 F.3d at 1146. In accordance with the parties' agreement and
3 general motion practice, their inaction should be "deemed consent" to public access.
4 *See* L.R. 7-12. This alone is reason to grant ICIJ's request to unseal the records.

5 **II. BECAUSE NO PARTY HAS ARGUED FOR SEALING, THE**
6 **PRESUMPTION OF ACCESS PREVAILS AND THE RECORDS**
7 **MUST BE UNSEALED**

8 Setting aside GEO and Spartan's procedural failures, the documents should
9 also be unsealed because they are presumptively public court records and neither
10 defendant has provided any reason to rebut that presumption. For the records at
11 issue here, Defendants were required—at minimum—to demonstrate that
12 compelling reasons for sealing exist. *See Kamakana*, 447 F.3d at 1178–80. This
13 Court could then have properly weighed those reasons against the public's interests
14 before deciding whether the requested sealing was justified. *See id.* at 1179. But,
15 because no reason for sealing has been raised, there is nothing to weigh and the
16 public's interests have not been and cannot be overcome. Therefore, this Court
17 should unseal the records because the presumption of access remains intact.

18 **A. The Documents ICIJ Seeks to Unseal Are Presumptively Public**
19 **Under Common Law and the First Amendment**

20 Proposed Intervenor ICIJ challenges the unsupported sealing of almost all
21 court records found at Dkts. 315, 336, and 445, which are documents submitted to
22 the Court relating to class certification, summary judgment, and evidentiary issues.
23 Ex. 1. These documents are presumptively public under both common law and the
24 First Amendment. *See United States v. Doe*, 870 F.3d 991, 996–97 (9th Cir. 2017)
("The law recognizes two qualified rights of access to judicial proceedings and

1 records.”) (citation modified); *Kamakana*, 447 F.3d at 1178 (recognizing that the
2 common law right of access attaches to all judicial documents except those
3 “traditionally kept secret”); *Civ. Beat L. Ctr. for Pub. Int., Inc. v. Maile*,
4 117 F.4th 1200, 1208 (9th Cir. 2024) (“[T]he presumptive First Amendment right
5 of public access attaches broadly . . . [and] ‘reaches civil judicial proceedings and
6 records.’”). When the right of access attaches, the starting point for evaluating
7 whether to seal a record is “a strong presumption in favor of access to court
8 records.” *Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1096 (9th Cir.
9 2016) (quoting *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1135 (9th
10 Cir. 2003)). The proponent of secrecy bears a heavy burden in rebutting the
11 presumption of access. *Forbes Media LLC v. United States*, 61 F.4th 1072, 1081
12 (9th Cir. 2023).

13 While the distinction between the common law and the First Amendment
14 rights is imprecise, and often referred to as a singular right, the First Amendment
15 “is generally understood to provide a stronger right of access than the common
16 law.” *Id.* (quoting *United States v. Bus. of Custer Battlefield Museum & Store*,
17 658 F.3d 1188, 1197 n.7 (9th Cir. 2011)). As such, the standard for rebutting the
18 presumption of access under the First Amendment is higher and can only be
19 “overcome by a compelling governmental interest,” *In re Copley Press, Inc.*,
20 518 F.3d 1022, 1026 (9th Cir. 2008), that is “‘based on findings that closure is
21 essential to preserve higher values and is narrowly tailored to serve that interest.’”
22 *Oregonian Pub. Co. v. U.S. Dist. Ct. for Dist. of Or.*, 920 F.2d 1462, 1465 (9th Cir.
23 1990) (quoting *Press-Enterprise Co. v. Super. Ct. of Cal.*, 464 U.S. 510, 510
24 (1983)). For the common law, the burden is slightly less: the proponent “must show

1 that ‘compelling reasons supported by specific factual findings ... outweigh the
2 general history of access and the public policies favoring disclosure.’” *Pintos v.*
3 *Pac. Creditors Ass’n*, 605 F.3d 665, 678 (9th Cir. 2010) (quoting *Kamakana*,
4 447 F.3d at 1178–79).

5 Under both standards, a court must engage in “case-by-case balancing” of the
6 asserted interest for sealing and the public’s interest in openness. *See United States*
7 *v. Index Newspapers LLC*, 766 F.3d 1072, 1095–96 (9th Cir. 2014) (discussing First
8 Amendment standard); *Kamakana*, 447 F.3d at 1179 (discussing common law
9 standard). And, under both, the court is required to articulate its reasoning with
10 enough specificity to allow for meaningful appellate review. *See Pintos*, 605 F.3d
11 at 679 (discussing common law standard); *see also Oregonian Pub. Co.*, 920 F.2d
12 at 1465 (discussing First Amendment standard). In this case, the distinction between
13 these common law and First Amendment tests is immaterial. As discussed in
14 Section II.B, *infra*, GEO and Spartan cannot and have not attempted to carry even
15 the lesser burden under common law, so they necessarily cannot meet the higher
16 constitutional standard either.

17 **B. The “Compelling Reason” Standard Applies to Every Document**
18 **ICIJ Seeks to Unseal Because the Documents Are “More Than**
19 **Tangentially Related to the Merits”**

20 As a preliminary matter, Defendants were required to show—at minimum—
21 that there are compelling reasons to seal each record. Ninth Circuit precedent
22 “presumes that the “‘compelling reasons” standard applies to *most* judicial
23 records.” *Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1098 (9th Cir.
24 2016) (quoting *Pintos v. Pac. Creditors Ass’n*, 605 F.3d 665, 677–78 (9th
Cir.2009)). However, the default compelling reasons standard has a “‘good cause’

1 exception” for sealing materials “attached to a discovery motion unrelated to the
2 merits of a case.” *Id.* at 1097 (summarizing *Foltz v. State Farm Mut. Auto. Ins. Co.*,
3 331 F.3d 1122, 1135 (9th Cir. 2003)). When analyzing which sealing standard to
4 apply, the court’s decision should “turn on whether the motion is more than
5 tangentially related to the merits of a case,” not simply “whether the motion is
6 technically ‘dispositive.’” *Ctr. for Auto Safety*, 809 F.3d at 1101. Dispositive
7 motions are obviously related to the merits of a case but “plenty of technically
8 nondispositive motions—including routine motions in limine—are strongly
9 correlative to the merits of a case” as well. *Id.* at 1098–99. “To only apply the
10 compelling reasons test to the narrow category of ‘dispositive motions’ goes against
11 the long held interest ‘in ensuring the public’s understanding of the judicial process
12 and of significant public events.’” *Id.* at 1098 (quoting *Kamakana*, 447 F.3d at
13 1179).

14 Here, the “compelling reasons” standard applies to every document ICIJ
15 seeks to unseal because the records “go to the heart” and the merits of Plaintiffs’
16 allegations, as well as this Court’s decision-making. *Id.* Beginning with Plaintiffs’
17 oppositions to summary judgment, key portions of their briefs and over sixty related
18 exhibits (Dkt. 336) are sealed or redacted. *See* Opp’ns to Mots. Summ. J.,
19 Dkts. 337, 338; Ex. 1 at 3–6. As a dispositive motion that serves as a “substitute for
20 trial,” there is no question that summary judgment motions are related to the merits
21 of a case and the compelling reason standard applies—and remains unmet by
22
23
24

1 Defendants.¹⁰ *Foltz*, 331 F.3d at 1135 (quoting *Rushford v. New Yorker Mag.*, 846
2 F.2d 249, 252 (4th Cir. 1988)); Pls.’ Appl., Dkt. 335; Sealed Filings, Dkt. 336.

3 Next, courts across the Ninth Circuit—including this Court—have found that
4 class certification is an issue ““more than tangentially related to the merits of a
5 case.”” *See e.g. Adtrader, Inc. v. Google LLC*, No. 17-cv-07082-BLF, 2020 WL
6 6391210, at *1–2 (N.D. Cal. Mar. 24, 2020) (quoting *Ctr. for Auto Safety*, 809 F.3d
7 at 1101) (summarizing cases); *Vrugtman*, 2023 WL 6369765, at *7 (Bernal, J.). The
8 direct relationship may arise when evaluating the requirements for class
9 certification, which “will ‘frequently... entail some overlap with the merits of the
10 plaintiff’s underlying claim.’” *Favell v. Univ. of S. Cal.*, No. 2:23-cv-00846-GW-
11 MAR, 2025 WL 4475640, at *3 (C.D. Cal. Oct. 30, 2025) (quoting *Wal-Mart*
12 *Stores, Inc. v. Dukes*, 564 U.S. 338, 351 (2011)). Here, this Court’s analysis
13 overlapped with the merits when it found that “Plaintiffs’ proposed focus on
14 exposure defeats commonality,” as “variations in exposure and, resultingly,
15 whether each individual was actually injured, are essential components of their
16 claims.” Dkt. 365 at 9. Because this Court’s “determination of the class certification
17 involved evaluating the elements of [Plaintiffs’] claim to determine whether there
18 are common questions of law or fact, the motion is more than tangentially related
19 to the merits of the case.” *Favell*, 2025 WL 4475640, at *3. As such, the compelling

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21
22 ¹⁰ Plaintiffs correctly identified the “compelling reasons” standard for Defendants’
23 materials but wrongly applied the “good cause” standard to their own redactions and
24 exhibits in their application to seal summary judgment materials. Dkt. 335 at 6–7.
However, ICIJ does not challenge Plaintiffs’ sealing of PII and PHI.

1 reasons standard applies to the documents and redactions related to class
2 certification. Pls.’ Appl., Dkt. 314; Sealed Filings, Dkt 315; Ex. 1 at 1–2.

3 Lastly, evidentiary motions, including motions in limine, may also require
4 the higher compelling reasons standard when the outcome is “able to significantly
5 affect the disposition of the issues in the case.” *See Ctr. for Auto Safety*, 809 F.3d
6 at 1101 (discussing *Daubert* motion at issue in *In re Midland Nat’l Life Ins. Co.*
7 *Annuity Sales Practices Litig.*, 686 F.3d 1115 (9th Cir. 2012)). Specifically,
8 “[b]ecause a motion *in limine* seeks to exclude evidence from the trial, they are
9 more than tangentially related to the merits of the case.” *Skillz Platform Inc. v.*
10 *AviaGames Inc.*, No. 21-cv-02436-BLF, 2024 WL 459076, at *2 (N.D. Cal. Feb. 6,
11 2024); *see also Barillas v. City of Los Angeles*, No. CV 18-08740-CJC (ASx), 2021
12 WL 12325931, at *1 (C.D. Cal. Feb. 5, 2021) (applying compelling reasons
13 standard because the motions in limine “concern evidence that could determine” the
14 success of plaintiff’s claim). Here, the sealed materials are attached to two of
15 Plaintiffs’ oppositions to Defendants’ motions in limine, Dkts. 436, 437. *See Appl.*,
16 Dkt. 444; Sealed Filings, Dkt. 445; Ex. 1 at 7. The redactions in the briefs make it
17 difficult to discern specifics, which is itself problematic, but Plaintiffs state that the
18 evidence goes to “[o]ne of the essential fact disputes in this action” (Dkt. 437 at 1)
19 and “make[s] several disputed issues more probable,” including the manner in
20 which GEO continued to use HDQ Neutral. Dkt. 436 at 2. Indeed, the fact that
21 Plaintiffs were fighting to include the evidence demonstrates its importance to the
22 merits of their claims. Thus, the compelling reasons standard also applies to the
23 materials related to the motions in limine.

1 **C. The Presumption of Access Cannot Be Rebutted With**
2 **Confidentiality Designations Because a Blanket Protective Order**
3 **Is Not a Compelling Reason to Seal**

4 Because Defendants never submitted declarations in support of sealing, and
5 this Court has not made the requisite findings explaining its decision, Dkts. 365 and
6 491, the sole indication suggesting that the records should be sealed is that the
7 documents were designated as confidential during discovery. *See e.g.* Dkt. 314 at 1.
8 These designations only apply to the exchange of discovery materials between
9 parties and do not extend to filings with this Court. *See Kamakana*, 447 F.3d at 1180
10 (“Different interests are at stake with the right of access than with [discovery]; with
11 the former, the private interests of the litigants are not the only weights on the
12 scale.”) But here, the confidentiality designations from discovery have improperly
13 bled into the adjudicative record and caused categorically unjustified sealing. *See*
14 *Foltz*, 331 F.3d at 1134. The result is over one hundred records hidden from the
15 public that no party has argued should be sealed.

16 The Ninth Circuit has made it clear that protective orders—whether
17 stipulated, blanket, or both—are a not a reason to seal court records. *Kamakana*,
18 447 F.3d at 1180; *Foltz*, 331 F.3d at 1136; *San Jose*, 187 F.3d at 1101. This is
19 because the standards for sealing court records are higher than the standard for
20 granting a protective order. *Kamakana*, 447 F.3d at 1180. While protective orders
21 require an individualized showing of “good cause” before they are granted with
22 respect to a particular document, blanket protective orders are routinely granted
23 when generalized “good cause” is shown. Fed. R. Civ. P. 26(c). And, for stipulated
24 blanket protective orders, the parties do not have to make any showing at all. *See*
Beckman Indus., Inc. v. Int’l Ins. Co., 966 F.2d 470, 476 (9th Cir. 1992).

1 “When discovery material is filed with the court, [] its status changes.” *Foltz*,
2 331 F.3d at 1134. Once materials become court records, they “are public documents
3 almost by definition, and the public is entitled to access by default.” *Kamakana*,
4 447 F.3d at 1180. That is the case here, where documents subject to a protective
5 order were filed under seal as attachments to motions that go to the merits of the
6 case. *Foltz*, 331 F.3d at 1136; *see Kamakana*, 447 F.3d at 1180.

7 Though no party has argued that a confidentiality designation under a blanket
8 protective order justifies sealing, that is functionally the argument this Court has
9 accepted. Because this is plainly contrary to well-established law, there is no
10 sufficient justification for sealing and this Court must unseal the records.

11 CONCLUSION

12 Because GEO and Spartan have not argued for or requested the relevant
13 sealing already granted in this case, Proposed Intervenor ICIJ respectfully requests
14 that this Court unseal the materials identified above and deny the portions of the
15 pending application to seal that relate to GEO’s documents.

16 Dated: October 5, 2026

Submitted,

18 PUBLIC JUSTICE

19 /s/ Jacqueline Arkush

Jacqueline Arkush (SBN 365861)

21 *Counsel for Proposed Intervenor*
22 *Inland Coalition for Immigrant Justice*