

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

KATHLEEN BREEN, <i>et al.</i> ,	)	
Plaintiffs,	)	
	)	
v.	)	
	)	Civil Action No. 05-cv-654 (PLF)
ANTHONY FOXX, SECRETARY OF	)	
TRANSPORTATION, DEPARTMENT OF	)	
TRANSPORTATION, <i>et al.</i> ,	)	
	)	
Defendants.	)	
	)	

**PRIVACY ACT PROTECTIVE ORDER**

1. Defendants are authorized to release government records and other information covered by the Privacy Act, 5 U.S.C. § 552a, as set forth in this Order without obtaining the prior written consent of the individuals to whom such records or information pertain.

2. The scope of this Protective Order covers government records and other information currently in the possession of the United States that contain the social security numbers of individuals listed in Attachment A of Plaintiffs’ January 13, 2017 Unopposed Motion for Entry of Privacy Act Protective Order.

3. Those documents that Defendants identify as containing information subject to the Privacy Act or containing the social security numbers of individuals are hereinafter referred to as “Covered Documents.” All information subject to the Privacy Act and the social security numbers of individuals solely derived from Covered Documents, even if incorporated in another document or compilation, are hereinafter referred to as “Covered Information.”

4. Covered Documents and Covered Information may be used only for the purposes of this civil action and any appeals thereof, and shall be limited for the purpose of finding updated contact information for those listed in Attachment A of Plaintiffs' January 13, 2017 Unopposed Motion for Entry of Privacy Act Protective Order. All Covered Documents and all copies thereof must be returned to Defendants or their counsel or destroyed by Plaintiffs' counsel within 60 days after the termination of this civil action and any appeals thereof. Any pleadings or other court filings created or filed by Plaintiffs or their counsel that contain Covered Information and are retained by Plaintiffs or their counsel as part of their litigation files remain subject to the terms of this Protective Order. Any other documents created by Plaintiffs or their counsel, or anyone working with them or on their behalf, that contain Covered Information must be destroyed by Plaintiffs' counsel or returned within 60 days after the termination of this civil action and any appeals thereof. Plaintiffs' counsel will certify to Defendants' counsel after the termination of this civil action and any appeals thereof that such documents have been returned or destroyed.

5. Covered Documents shall be marked by Defendants prior to production as "PRODUCED SUBJECT TO PROTECTIVE ORDER", "SUBJECT TO PROTECTIVE ORDER", or contain a similar marking. For any Covered Documents, such as computer data, whose medium makes such stamping impracticable, the diskette case and any accompanying paper or e-mail cover letter shall be marked "PRODUCED SUBJECT TO PROTECTIVE ORDER", "SUBJECT TO PROTECTIVE ORDER", or contain a similar marking. Except as provided in paragraph 6 below, no person who obtains access to Covered Documents or Covered Information pursuant to this Protective Order shall disclose those records or that information without further order of the Court.

6. Plaintiffs' counsel may only disclose Covered Documents and Covered Information to (a) the Court and its personnel, including court reporters; (b) the attorneys of record for the parties and persons regularly in the employ of such attorneys who have a need for Covered Documents or Covered Information in the performance of their duties; (c) employees of Defendants; and (d) outside contractors hired to use the individuals' social security numbers for the sole purpose of locating and contacting these individuals. Any disclosure by the plaintiffs or their counsel and anyone working with them or on their behalf shall be made only for litigation purposes related to this civil action and any appeals thereof.

7. Any person listed in paragraph 6 (except the Court, Defendant's employees, and the parties' counsel) to whom disclosure of Covered Documents or Covered Information is to be made must sign the Acknowledgment of Privacy Act Protective Order attached hereto before disclosure.

8. The plaintiffs and their counsel shall not disclose Covered Documents or Covered Information to any persons except to those indicated in paragraph 6 without obtaining the prior express written approval by or on behalf of Defendants. If Defendants do not consent to disclosure, then Plaintiffs may, on motion, seek modification of this Order from the Court.

9. All individuals to whom Covered Documents and Covered Information are disclosed by the plaintiffs or their counsel shall return any and all records and copies thereof in their custody, possession, or control to plaintiffs' counsel upon termination of this civil action, including any appeals thereof or when they are no longer assigned or retained to work on this case, whichever comes earlier.

10. Those portions of any filings with the Court that include Covered Documents

or Covered Information shall be made under seal. Those portions of any depositions in which any such information is revealed shall be placed under seal.

11. The designation, or failure to designate, any materials as Covered Documents or Covered Information shall not constitute a waiver of any party's assertion that the materials are covered by this Order.

12. Each party reserves the right to seek to modify the terms of this Order at any time, and each party reserves the right to oppose any motion to modify the terms of this Order.

13. This Order does not constitute a ruling on the question of whether any particular record is properly discoverable or admissible and does not constitute a ruling on any potential objection to the discoverability of any record, other than objections based on the Privacy Act.

14. Nothing in this Order shall be constructed as limiting the right of either party to introduce Covered Documents or Covered Information into evidence at trial, subject to the Rules of Evidence and such privacy protections as the presiding Judge may deem appropriate.

Upon consideration of the Unopposed Motion of the Defendants, and pursuant to the Privacy Act of 1974, 5 U.S.C. § 552a(b)(11) and Federal Rule of Civil Procedure 26(c), IT IS HEREBY ORDERED that the above Order is entered.

This \_\_\_\_\_ day of January, 2017.

BY THE COURT:

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PAUL L. FRIEDMAN  
UNITED STATES DISTRICT JUDGE

AGREED TO:

FOR PLAINTIFFS:

s/ Joseph M. Sellers

Joseph M. Sellers, Bar No. 318410  
Shaylyn Cochran, Bar No. 1012977  
Brian Corman, Bar No. 1008635

**COHEN MILSTEIN SELLERS  
& TOLL PLLC**

1100 New York Avenue, N.W.  
Suite 500, East Tower  
Washington, DC 20005  
Telephone: (202) 408-4600  
Facsimile: (202) 408-4699  
[jsellers@cohenmilstein.com](mailto:jsellers@cohenmilstein.com)

s/ Gary M. Gilbert

Gary M. Gilbert, Bar No. 15808  
Linda A. Kincaid, Bar No. 416936  
Stephanie M. Herrera, Bar No. MD17994  
Michal Shinnar, Bar No. MD0033

**THE LAW OFFICES OF GARY M. GILBERT  
& ASSOCIATES, P.C.**

1100 Wayne Avenue, Suite 900  
Silver Spring, MD 20910  
Telephone: (301) 608-0880  
Facsimile: (301) 608-0881  
Gary@ggilbertlaw.com

FOR DEFENDANTS:

BENJAMIN C. MIZER  
Principal Deputy Assistant Attorney General

CHANNING D. PHILLIPS  
United States Attorney

JOSHUA E. GARDNER  
Assistant Branch Director

/s/ Elizabeth Kade  
ELIZABETH KADE (D.C. Bar 1009679)  
BRIAN G. KENNEDY (D.C. Bar 228726)  
ADAM D. KIRSCHNER  
LISA ZEIDNER MARCUS  
United States Department of Justice  
Civil Division, Federal Programs Branch  
20 Massachusetts Avenue N.W.  
Washington, D.C. 20530  
Tel.: (202) 616-8491  
Fax: (202) 616-8470  
Email: [Elizabeth.L.Kade@usdoj.gov](mailto:Elizabeth.L.Kade@usdoj.gov)

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	)	
Defendants.	)	
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**ACKNOWLEDGMENT OF PRIVACY ACT PROTECTIVE ORDER**

I, \_\_\_\_\_, hereby acknowledge that I have read and understand the Privacy Act Protective Order (the “Order”) entered in this action. I hereby agree to be bound by the terms of the Order. Specifically,

1. I agree that I will use records and information protected by the Order only for purposes of this civil action and any appeals thereof, and not for any other purpose of any kind.

2. I agree that records and information and all copies thereof protected by the Order will be returned to Plaintiffs’ counsel at the termination of this civil action and any appeals thereof or when I am no longer assigned or retained to work on this case, whichever comes earlier, so that the records and information may be returned to counsel for Defendants or destroyed by Plaintiffs’ counsel within 60 days after the termination of this civil action or any appeals thereof.

3. I agree that I will disclose records and information protected by the Order only to

(a) the Court and its personnel, including court reporters; (b) the attorneys of record for the parties and persons regularly in the employ of such attorneys who have a need for Covered Documents or Covered Information in the performance of their duties; (c) the plaintiffs; (d) employees of Defendants; and (e) outside contractors hired to use the individuals' social security numbers for the sole purpose of locating and contacting these individuals. In any event, I will not make disclosure to any person (except the Court and its personnel, including court reporters, Defendants' employees, and the parties' counsel) who has not signed an Acknowledgment of Privacy Act Protective Order in the above-captioned matter and does not have a need for such information to perform duties specifically related to the conduct of this civil action or any appeals thereof.

4. Should I wish to disclose the records that are subject to the Order to any additional persons except those indicated in the Order and herein, I or Plaintiffs' counsel will first seek the consent of Defendants. If Defendants do not consent to the disclosure, then I or Plaintiffs' counsel may, on motion, seek modification of the Order from the Court.

5. I agree that those portions of any filings with the Courts that contain Privacy Act materials or other private personal information protected by the Order shall be filed under seal.

6. I hereby confirm that my duties under this Acknowledgment shall survive the termination of this case and are binding upon me for all time.

7. I hereby consent to the personal jurisdiction of the United States District Court for the District of Columbia for the purpose of enforcement of the Order.

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[signature]

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[print name]