

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**IN RE: DAVOL, INC./C.R. BARD,
INC., POLYPROPYLENE HERNIA
MESH PRODUCTS LIABILITY
LITIGATION**

Case No. 2:18-md-2846

**JUDGE EDMUND A. SARGUS, JR.
Magistrate Judge Kimberly A. Jolson**

**This document relates to:
ALL ACTIONS.**

ORDER

On December 20, 2019, the Plaintiffs' Steering Committee ("PSC") moved for leave to file under seal (ECF No. 285) its forthcoming motion to enforce subpoenas served upon American Hernia Society, Inc. d/b/a Americas Hernia Society ("AHS") and the Americas Hernia Society Quality Collaborative Foundation ("AHSQCF") (collectively "Respondents") and to compel Respondents to produce the documents outlined in the motion ("Motion to Compel").

The PSC claims its forthcoming Motion to Compel and accompanying exhibits include documents that have been designated by other parties as "Confidential" and "Highly Confidential," and that it is required to file any documents that have been designated "Confidential" and "Highly Confidential" under seal pursuant to Article VIII, Paragraph 23 of the Protective Order (ECF No. 285 at 2.) The PSC contends it is unable to assess the validity of these designations and seeks leave to file under seal in an abundance of caution.

To date, no party has offered any reasons for sealing the information in the forthcoming Motion to Compel and accompanying exhibits, let alone any of “the most compelling reasons” that would justify non-disclosure of that information under Sixth Circuit’s precedent. *See Shane Grp., Inc. v. Blue Cross Blue Shield of Mich.*, 825 F.3d 299, 305 (6th Cir. 2016). District courts must consider “each pleading [to be] filed under seal or with redactions and to make a specific determination as to the necessity of nondisclosure in each instance” and must “bear in mind that the party seeking to file under seal must provide a ‘compelling reason’ to do so and demonstrate that the seal is ‘narrowly tailored to serve that reason.’” *In re Nat 7 Prescription Opiate Litig.*, 2019 WL 2529050, at *14 (quoting *Shane Grp.*, 825 F.3d at 305). If a district court permits a document to be filed under seal or with redactions, “it shall be incumbent on the court to adequately explain ‘why the interests in support of nondisclosure are compelling, why the interests supporting access are less so, and why the seal itself is no broader than necessary.’” *Id.* (quoting *Shane*, 825 F.3d at 306).


It is therefore **ORDERED** that any interested party that wishes the forthcoming Motion to Compel and accompanying exhibits be filed under seal shall file a written response by **January 21, 2020** setting forth the reasons for the sealing and the specific portion(s) of the forthcoming Motion to Compel and accompanying exhibits that should be filed under seal. The Clerk is directed to provide a copy of this Order to Respondents’ counsel at the following address:

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IT IS SO ORDERED.

1-13-2020
DATE



EDMUND A. SARGUS, JR.
UNITED STATES DISTRICT JUDGE

1/13/2020
DATE



KIMBERLY A. JOLSON
UNITED STATES MAGISTRATE JUDGE