

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA  
CIVIL DIVISION**

ANIMAL LEGAL DEFENSE FUND,

Plaintiff,

v.

HORMEL FOODS CORPORATION,

Defendant.

Case No. 2016 CA 004744

Judge Fern Flanagan Saddler

Next Event: Decision on Dispositive  
Motions: April 1, 2019

**PLAINTIFF ANIMAL LEGAL DEFENSE FUND'S UNOPPOSED MOTION TO  
UNSEAL COURT FILINGS NO PARTY HAS MOVED TO SEAL**

Pursuant to the Protective Order in this case, Plaintiff Animal Legal Defense Fund ("ALDF"), by and through its counsel, files this Unopposed Motion to Unseal the documents filed by ALDF in support of its Motion for Summary Judgment and its Opposition to Defendant Hormel Foods Corporation's Motion for Summary Judgment, which were preliminarily filed under seal at Hormel's request, but which Hormel has not timely moved to seal.<sup>1</sup>

Paragraph 18 of the Court's October 16, 2017, Protective Order outlines the procedures for the filing of "Protected Material," documents and testimony a party has designated as "Confidential" or "Highly Confidential." Those procedures require that a party in receipt of Protected Material who files the Protected Material with the court, preliminarily file the material under seal, unless the Producing Party agrees that it may be filed publicly. Oct. 16, 2017, Protective Order ¶ 18. The Producing Party then has 14 days to move to seal those documents

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<sup>1</sup> The third-parties have each sought to seal all of their documents ALDF filed in support of its summary judgment motion and its motion for spoliation sanctions. Therefore, all the filings at issue in this Motion were designated confidential by Hormel and preliminarily filed under seal at Hormel's request. As described below, consistent with the terms of the Protective Order and the local rules, after Hormel filed its motion to seal certain documents, ALDF informed Hormel of ALDF's intent to move unseal the remaining documents. Hormel has said it will not oppose ALDF's motion to unseal the documents Hormel has not timely moved to permanently seal.

permanently. *Id.* Here, the Court granted Hormel an extension of time to file its motion to permanently seal materials filed in support of ALDF's Motion for Summary Judgment. Jan. 23, 2019, Order. The time for Hormel to file a motion to permanently seal any of the documents submitted in connection with the summary judgment briefing has now passed.

The Protective Order further provides that if the Producing Party fails to move to permanently seal the documents within the designated time period, the Producing Party "will have waived any argument or claim that the filed materials meet the standard to be filed under seal, and the filed materials will be unsealed by motion of the Receiving Party." Oct. 16, 2017, Protective Order ¶ 18. In short, if a Producing Party fails to timely move to seal, the Court must grant the Receiving Party's motion to unseal.

Here, Hormel initially designated the vast majority of documents it produced, as well as every line of every deposition of its witnesses, as "Confidential" or "Highly Confidential," leaving ALDF little choice but to rely on Hormel's Protected Materials to support the arguments in its Court filings. As a result, in support of its motion for summary judgment and opposition to Hormel's motion, ALDF filed numerous documents and deposition excerpts that had been designated as protected by Hormel. As explained in detail in ALDF's summary judgment and sealing briefing, those materials were not included gratuitously, but rather are relevant to ALDF's arguments in favor of summary judgment for ALDF, and against summary judgment for Hormel. *See, e.g.*, ALDF Opp. to Hormel Mot. to Seal § III (Feb. 22, 2019) (summarizing why documents relevant to various aspects of summary judgment). Pursuant to Paragraph 18, prior to these documents being filed preliminarily under seal, ALDF met and conferred with Hormel and Hormel requested that each of the documents or deposition excerpts be preliminarily filed under seal, ALDF did so. Hormel Mot. to Seal 3 (Feb. 1, 2019).

Pursuant to the Protective Order and the Order extending the time for moving to seal, Hormel has since timely moved to partially or fully seal many, but not all, of the Protected Materials.<sup>2</sup> ALDF now moves to unseal those documents for which, under the plain terms of the Protective Order, Hormel has waived any argument in favor of sealing because the time for Hormel to file its motion to permanently seal has passed. Thus the documents should be “unsealed by motion of the Receiving Party,” ALDF. *See* Oct. 16, 2017, Protective Order ¶ 18.

Specifically, ALDF moves to unseal the following materials filed in support of ALDF’s January 11, 2019, motion for summary judgment:

<b>Exhibit</b>	<b>Bates Number/Testimony</b>	<b>Appendix Page Number</b>
Exhibit 1	HORM_DC00010032	1
Exhibit 5	HORM_DC00078337	101
Exhibit 37	HORM_DC00020348	853
Exhibit 39	HORM_DC00012720	899
Exhibit 40	HORM_DC00019324	926
Exhibit 41	HORM_DC00012183	943
Exhibit 51	HORM_DC00044223	999
Exhibit 60	HORM_DC00154514	1334
Exhibit 64	HORM_DC00067451	1446
Exhibit 84	HORM_DC00135216	1586
Exhibit 86	HORM_DC00166176	1592
Exhibit 87	HORM_DC00166296	1600
Exhibit 88	HORM_DC00166208	1612
Exhibit 89	HORM_DC00166236	1623
Exhibit 91	HORM_DC00113425	1638
Exhibit 96	HORM_DC00007693	1745

<sup>2</sup> ALDF opposed Hormel’s motion to seal to the extent it sought to seal documents in full; ALDF did not oppose the redactions of certain personal information in the public record. *See* ALDF Opp. to Hormel Mot. to Seal (Feb. 22, 2019).

Exhibit 98	HORM_DC00049738	1872
Exhibit 99	HORM_DC00008612	1876
Exhibit 100	HORM_DC00008386	1879
Exhibit 101	HORM_DC00008482	1882
Exhibit 102	HORM_DC00008566	1885
Exhibit 103	HORM_DC00166428	1888
Exhibit 104	HORM_DC00007574	1891
Exhibit 105	HORM_DC00166700	1894
Exhibit 106	HORM_DC00007698	1897
Exhibit 109	HORM_DC00100981	1906
Exhibit 111	HORM_DC00166218	1936
Exhibit 112	HORM_DC00166316	1945
Exhibit 113	HORM_DC00009079	1956
Exhibit 116	HORM_DC00064445	1981
Exhibit 118	HORM_DC00006319	1996
Exhibit 124	HORM_DC00007728	2020
Exhibit 131	HORM_DC00134622	2043
Exhibit 133	HORM_DC00021428	2053
Exhibit 138	HORM_DC00116067	2107
Exhibit 140	HORM_DC00006305	2111
Exhibit 142	HORM_DC00004576	2121
Exhibit 143	HORM_DC00110502	2136
Exhibit 144	HORM_DC00005215	2143 (native placeholder)
Exhibit 145	HORM_DC00005022	2145
Exhibit 147	HORM_DC00005280	2187
Exhibit 148	HORM_DC00134681	2227
Exhibit 164	HORM_DC00100118	2316
Exhibit 165	HORM_DC00139737	2318
Exhibit 166	HORM_DC00004592	2321

Exhibit 167	HORM_DC00112312	2324
Exhibit 168	HORM_DC00099528	2427
Exhibit 169	HORM_DC00004514	2431
Exhibit 170	HORM_DC00100640	2443
Exhibit 172	HORM_DC00166381	2498
Exhibit 173	HORM_DC00166384	2500
Exhibit 174	HORM_DC00008015	2502
Exhibit 179	HORM_DC00102311	2537
Exhibit 183	HORM_DC00100696	2573
Exhibit 207	Bollum 30(b)(6) Dep.	2770
Exhibit 208	Bollum Dep.	2793
Exhibit 209	Forbes 30(b)(6) Dep.	2813
Exhibit 211	Hilgers 30(b)(6) Dep.	2859
Exhibit 212	Kraft Dep.	2900
Exhibit 213	Kromm Dep.	2918
Exhibit 214	Sand Dep.	2984
Exhibit 217	Zavoral 30(b)(6) Dep. 8/22/18	3069
Exhibit 218	Zavoral Dep.	3083
Exhibit 225	HORM_DC00134489	3170 (native placeholder)
Exhibit 226	Bollum (indiv.) Dep at 50:3-51:18	3172

Further, ALDF moves to unseal the following materials filed in support of ALDF's January 25, 2019, opposition to Hormel's summary judgment motion:

<b>Exhibit</b>	<b>Bates Number/Testimony</b>	<b>Appendix Page Number</b>
Exhibit 233	Zavoral Dep. Ex. 25	3197

Because Hormel has waived any argument in favor of sealing these documents, under the procedures outlined paragraph 18 of the Protective Order and pursuant to the Protective Order, the above-listed documents should be unsealed.

Date: March 5, 2019

Respectfully Submitted,

/s/ David S. Muraskin

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**RULE 12-I CERTIFICATION**

Pursuant to D.C. Superior Court Rule of Civil Procedure 12-I, counsel for Plaintiff Animal Legal Defense Fund has conferred with counsel for Defendant Hormel Foods Corporation regarding this Motion. Hormel consents to the relief sought by this Motion.

*/s/ David S. Muraskin*

**CERTIFICATE OF SERVICE**

I, David S. Muraskin, hereby certify that on March 5, 2019, I caused a true and correct copy of the foregoing Motion to be served on counsel of record via CaseFileXpress.

*/s/ David S. Muraskin*



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**[PROPOSED] ORDER**

Upon consideration of Plaintiff Animal Legal Defense Fund’s (“ALDF’s”) Unopposed Motion to Unseal Court Filings No Party Has Moved To Seal, the Motion is GRANTED and the following list of ALDF’s Exhibits in support of its briefing on the cross-motions for summary judgment will be unsealed and may be filed with the Court publically.

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Date

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Saddler, J.