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Judge: Calendar, 11

2020CH04431

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EXHIBIT A

DECLARATION OF JACQUELINE STEVENS

I, Jacqueline Stevens, state and declare under penalty of perjury that the following is true and correct:

1. I am a named Intervenor in the Amended Motion to Vacate Orders Denying Access to Hearings and Records in [Matter of NextLevel Health Partners, Inc.] and Declare Unconstitutional 215 ILCS 5/188.1(b)(4,5).
2. I have been a tenured full professor in the Political Science Department at Northwestern University (“Northwestern”) since 2010. In 2012 I became the founding Director of the Deportation Research Clinic, Buffet Institute for Global Affairs, Northwestern University ("Clinic").
3. I make this declaration based on personal knowledge and observations as stated herein. Further, this Declaration contains my professional opinions on certain topic for which I have specialized knowledge based on my education, professional experience, expertise, and research.
4. If called to testify I could and would testify to each of the facts stated within this Declaration.
5. My scholarship focuses on laws and theories of membership in political societies since antiquity, especially policies that mobilize state violence on behalf of intergenerational groups and histories, e.g., nations. I publish research in scholarly and popular venues documenting opportunistic individuals relying on seemingly ascriptive affinities of race, nationality, or ethnicity to influence political and policy decisions for purposes of personal advancement at the expense of the general public and the groups they claim to represent, practices often studied by

political science as “patronage,” “predatory capitalism,” and “identity politics.”

6. My publications frequently analyze information about government operations. My research practice includes analyzing court records. My findings have been featured in numerous newspaper, magazine, radio, and television reports, including those of the *New Yorker*, *New York Times*, *Washington Post Guardian*, *Columbia Journalism Review*, NPR, PBS, and CNN. My monographs have been published by Columbia University Press and Princeton University Press.

7. My scholarly articles have appeared in highly selective venues, including the *American Political Science Review*, *Georgetown Immigration Law Journal*, *Perspectives on Politics*, and the *American Journal of Public Health*. In 1997-1999 I was a Robert Wood Johnson Health Policy Scholar at Yale University. In 2013 I was awarded a Guggenheim Fellowship. A recent article “Enacting Citizenship for a Healthy *Politeia*” was featured in the 25th Anniversary issue of *Citizenship Studies*.¹

8. A statement on the Clinic website states: "The Clinic conveys useful, timely, intelligent research on misconduct in deportation proceedings to affected communities, journalists, policymakers, and scholars ... The Clinic's research mission is rooted in public health approaches to theorizing and addressing community-level risks and interventions."² Public health experts use individual-level information to help patients and to assist in community-level interventions. Information obtained for the purpose of assisting individuals who report experiencing government misconduct is used to provide analyses for addressing systemic problems in the government, including incompetence, nativism, and racism. The same webpage also quotes from an article written by Chief Justice Louis Brandeis: "Publicity is justly commended as a

1 *Citizenship Studies*, 22 (July 10), DOI: 10.1080/13621025.2022.2091251.

2 "Research Goals," <https://deportation-research.buffett.northwestern.edu/research/index.html>.

remedy for social and industrial diseases. Sunlight is said to be the best of disinfectants; electric light the most efficient policeman."³

9. This Declaration is to clarify the record on case materials for 2020 CH 04431 accessible to, and accessed by, the public that are material to my Amended Motion to Reconsider (“Am. Mot. Rec.”), my Motion for Sanctions Pursuant to Rule 137 (“Mot. Sanctions”), and a Motion for a Preliminary Injunction Authorizing Intervenor’s Access to Cook County Circuit Court Digital Records, to be filed (“Mot. Access”).

10. Relatedly, this Declaration describes how court orders in 2020 CH 04431 and a policy of the Clerk of the Circuit Court of Cook County are restricting my ability to publish, petition the government, and access information.

Chronology of Public Filings

11. On January 5, 2022, a doctoral student and practicing attorney visiting the United States from Europe as a Fulbright Scholar was assisting me in procuring court records for this proceeding.

12. As she was assisting me from the Daly Center, we spoke and exchanged text messages via cell phones. The assistant told me that numerous records were listed as “restricted” and that she was unable to clarify whether the documents were restricted pursuant to a court order.

13. The Lift and Seal order of November 29, 2021 (“Lift and Seal Order”) was among the documents that as of January 5, 2022 were not available to the public. (“Ex. 1.”)

14. After being alerted to the problem, the court chamber staff attorney Mohammed Rathur on January 5, 2022 sent me the Lift and Seal order as an attachment to an e-mail message.

3 Chief Justice Louis Brandeis, “What Publicity Can Do,” *Harper’s Weekly* (December 20, 1913).

15. On January 6, 2022, the Cook County Circuit Court produced a USB-flash drive that included the following:

a. The court Order of June 9, 2020 (“Conservation Order”). Ex. A.

b. Exhibits to NextLevel’s Memorandum in Support of NextLevel’s Proposed Limitations on Lift of Sequestration (“NextLevel Memo.”), including:⁴

i. The Complaint. **Ex. 1.** Ex. B.

ii. The Complaint with proposed redactions. **Ex. 2.**

iii. The Conservation Order **Ex. 3.**

iv. The Conservation Order with proposed redactions. **Ex. 4.**

v. A filing with a declaration by Glenn Giese (“Giese Declaration”), signed on June 24, 2020. **Ex. 5.**

16. The Giese Declaration includes a two-page signed statement by Giese; a four-page document titled “Actuarial Memorandum Development of Actuarial Items for 2019 Annual Statement NextLevel Health Partners, Inc.”; a one-page financial statement titled “Exhibit 3, NextLevel Health Partners, Inc. Claims Unpaid Summary”; a one-page financial statement titled “Exhibit 4, NextLevel Health Partners, Inc. Premium Deficiency Reserve”; a one-page financial statement titled “Exhibit 1,” a two-page document titled “Actuarial Memorandum Development of Actuarial Items for May 31, 2020,” and a one-page document titled “Actuarial Certification NextLevel Health Partners, Inc. Actuarial Liabilities as of May 31, 2020,” signed on June 23, 2020; and a one-page financial statement titled, “Exhibit 1, NextLevel Health Partners, Inc. Claims Unpaid Summary,”

⁴ The Exhibit numbers in i-v are associated with NextLevel’s Memo, not the filing of Intervenor Amended Motion to Reconsider (“Am. Mot. Reconsider”).

17. The Giese Declaration available to the public as Ex. 5 to NextLevel's Memorandum filed on November 12, 2021 contains no mention of an "Exhibit A." (Giese Declaration, "Ex. 2.")

18. The Giese Declaration available to the public as Ex. 5 to NextLevel's Memorandum filed on November 12, 2021 contains no mention of an "Exhibit B."

19. On January 6, 2022 and for months thereafter the public had access through the Cook County Circuit Court public terminals in the Daly Center to the unredacted Complaint and the unredacted Conservation Order in the form of the original filing for the Conservation Order *and* as exhibits to the NextLevel Memorandum.

20. On January 6, 2022 and for months thereafter the public had access to the Giese Declaration and exhibits as Ex. 5 to the NextLevel Memo.

21. To obtain pdfs of the record of proceedings, I paid \$272.00.

22. On January 6, 2022, the court's clerk office did not release to me NextLevel's motions and exhibits filed June 29, 2020.

23. On January 6, 2022, the court's clerk office did not include in its public record of proceedings released to me via the flash drive the order of November 29, 2021 indicating which documents should be redacted or maintained under seal.

24. On information and belief, two journalists have seen the filings in this case in the Daly Center.

25. I have personally seen notes taken by a reporter on documents in this proceeding ordered sealed or redacted that, the reporter told me, were obtained by viewing these documents at the public terminal in the Daly Center.

26. On information and belief, other reporters have or will see the records ordered sealed or redacted that were available through at least July 15, 2022 at no cost to licensed Illinois attorneys remotely via the CCCPortal.

27. A Northwestern University student who will be co-authoring a law review article with me has accessed, including downloaded, records in this proceeding available to the public. He also has reviewed records ordered sealed at the public terminal of the Daly Center.

Mr. Schwab and DLA Piper File No Orders with Clerk's Office to Seal or Replace Records

28. On May 3, 2022, unable to locate a copy of the redacted Complaint and redacted Order without an exhibit page, I sent an email to opposing counsel asking if they had indeed filed these.

29. Daniel Guberman, Senior Deputy General Counsel Compliance and Conflict Officer, Office of the Special Deputy Receiver ("Mr. Guberman") replied: "My recollection is that the court's order required that the unredacted copies of the complaint and conservation order be replaced, not that new filings be made. I think the court was provided with the redacted copies in order to effectuate the replacement of the two documents." Email from Guberman to Stevens et al., May 3, 2022 ("Ex. 3," p. 5).

30. Mr. Schwab also replied and affirmed the statement of Mr. Guberman. Ex. 3, p. 4.

31. On May 5, 2022, DLA Piper attorney Matthew Freilich sent me by e-mail stamped copies of the redacted Complaint and order of June 9, 2020 as filings stamped May 5, 2022. The Lift and Seal Order was not submitted with these filings.

32. On July 12, 2022, I sent courtesy copies of my Motion to Reconsider to the court and opposing counsel via e-mail. Email from Stevens to Judge Meyerson's chamber and opposing counsel ("Ex. 4").

33. On July 13, 2022, Mr. Schwab sent me an e-mail stating, “For the record, we object to your filing of the very Giese Declaration exhibits that you are aware the Court ordered should remain sealed. Kindly withdraw them immediately and present them to the Court lawfully.” Email from Schwab to Stevens et al., July 13, 2022 (Email correspondence between Schwab and Stevens, July 13, 2022 “Ex. 5”), p. 2 .

34. I replied that I had filed them as “confidential” and referenced my motion indicating as much, including discussing the absurdity of filing as confidential *photographs of records visible via the public terminal in the Daly Center*. Stevens to Schwab et al., July 13, 2022, Ex. 5, p. 1.

35. Mr. Schwab replied, “The attached notice does not reflect confidentiality. Did you file your motion with a copy of the Court’ sealing order so that the Clerk is aware?” Ex. 5, p. 1.

36. On information and belief, after the end of sequestration the court ordered on September 30, 2021 and stayed until November 29, 2021, neither Mr. Schwab nor his colleagues filed a notice of confidentiality or the Lift and Seal Order to insure that exhibits to NextLevel’s Memorandum of Law filed on November 11, 2021 would remain sealed or redacted.

37. On July 13, 2022, I called the clerk’s office to confirm that the records I filed as confidential indeed were confidential. I spoke with Carlo DeFranco, Chief Deputy Clerk, Chancery Division, Cook County Circuit Courts.

38. Mr. DeFranco said he was taking notes based on information I provided to him about the records ordered sealed and redacted being available as exhibits to filings of November 12, 2021. He stated to me, “I just want to make sure we didn’t screw up.” He provided the following information:

a. The exhibits I filed on July 12, 2022 of photographs from July 5, 2022 of the public terminal in the Daly Center were in fact “confidential.”

b. To be properly filed as “confidential” requires an order of the court.

c. Absent my including such an order, an opposing party could object to these exhibits being filed as confidential.

39. I told Mr. DeFranco that the images I filed were from exhibits to a motion NextLevel filed on November 12, 2021 pursuant to efforts to hide them from the public and that they obtained a court order for this purpose on November 29, 2021. I also told Mr. DeFranco that NextLevel attorneys were aware that these exhibits were available to the public and I did not know why the attorneys did not contact his office or file motions to obtain an order to render them confidential.

40. On July 12, 2022, Mr. Schwab stated in an e-mail: “You will recall the Court’s Nov. 29, 2021 Order which declared that *Exs. A and B to the Giese Declaration would remain under seal; **there were no other exhibits to the Giese Declaration.***” Email from Schwab to Stevens et al., July 12, 2022 (“Ex. 6”), emphasis added.

41. On July 13, 2022, in response to a further inquiry on Mr. Schwab’s concern about the filing of exhibits on July 12, 2022, Mr. Schwab stated: “The exhibits you filed as part of the Giese Declaration are indeed the Exhibits A and B referenced in the Declaration.” Email Schwab to Stevens, et. al., July 13, 2022 (“Ex. 7”), p. 1.

42. On July 15, 2022, the court stated during a hearing that the records ordered sealed or redacted were publicly accessible as exhibits to NextLevel’s Memorandum.

Restraint on Publication

43. At presentment on April 12, 2022 of my Motion to Declare Public Records in the Public,

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filed on April 4, 2022, I told the Hon. Judge Pamela McLean Meyerson that if the court did not declare public records in the public record for this case, the order of November 29, 2021 would mean any other journalist or citizen could report and publish on these publicly available documents, while my Intervenor status would prohibit only me from sharing the contents of these filings without being subjected to potential penalties.

44. The court during the pendency of this proceeding has not vacated the order sealing and redacting records that have been publicly available from January 3, 2022 through at least July 15, 2022.

Intervenor Denied Access to Electronic Records

45. The first website for a Duck Duck Go search engine search for “Cook County Circuit Court records” is a “.gov” web page that states, “Currently, the Illinois Supreme Court's Electronic Access Policy for Circuit Court Records of the Illinois Courts (April 1, 2004) prohibits remote access to actual case documents.”⁵ Ex. 8.

46. On March 15, 2022 a different (.org) web page for the Cook County Courts included an obscurely placed link to the CCCPortal and does not describe its function. The url is: <https://www.cookcountyclerkofcourt.org/>. Ex. 9.

47. A current version of <https://www.cookcountyclerkofcourt.org/> includes information on the CCCPortal. It states: “The Illinois Supreme Court’s Remote Access Policy allows Illinois licensed attorney and Justice Partners to have the same access to court records remotely, as if they were in the courthouse. Justice Partners include, but are not limited to, the State Attorney's Office, Public Defender, Law Enforcement, Department of Social Services, and other authorized agencies. To register with CCC Portal, Illinois attorneys must have an active license to practice

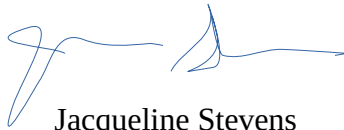
⁵ Cook County Clerk of the Circuit Court, <https://www.cookcountyil.gov/service/court-records-and-archives>.

in the State of Illinois.”

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VERIFICATION

I, the undersigned, swear under penalty of perjury, as provided by law under Section I-109 of the Illinois Rule of Civil Procedure, that the statements contained in this motion are true and correct to the best of my knowledge and belief, except where I lack sufficient knowledge to form a belief of the truth of the allegations, where so stated.



Jacqueline Stevens
Dated: July 27, 2022