

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

ADMINISTRATIVE ORDER NO. 2.303-9/08

IN RE: SEALING OF COURT HEARINGS
AND RECORDS

_____:

The Florida constitution mandates that the public shall have access to court records, subject only to certain enumerated limitations which are restricted by operation of state law, federal law, or court rule. In re Amendments to Florida Rule of Judicial Admin. 2.420 – Sealing of Court Records, 954 So.2d 16 (Fla. 2007). The Rules of the Supreme Court strongly disfavor court records that are hidden from public scrutiny. The Florida Supreme Court recently adopted Interim Rule 2.420 of the Florida Rules of Judicial Administration which addresses the procedures for sealing noncriminal court records. In order to ensure that both criminal and noncriminal court records are sealed properly it is

NOW, THEREFORE, pursuant to the authority conferred by Florida Rule of Judicial Administration 2.215, it is **ORDERED** as follows:

1. A request to make court records or a court hearing confidential in any type of case must be made by written motion. Parties cannot submit an agreed-upon order. The Motion must be captioned "Motion to Make Court Records Confidential" or "Motion to Make Court Hearing Confidential". The Motion must identify with particularity the records or hearing to be made confidential and the grounds upon which it is based. The Motion must include a signed certification by the party making the request that the motion is being made in good faith and is supported by a sound factual and legal basis.
2. The records that are the subject of a Motion to Make Court Records Confidential will be treated as confidential pending resolution of the motion. The case number, docket number, or other identifying number of a case will remain public. Pseudonyms may be used as permitted by the court. Court records made confidential under this rule must be treated as confidential during any appellate proceeding in this Circuit.
3. A public hearing on any motion to seal a court record or court hearing will be held as soon as practicable but no less than ten (10) days prior to the notice being given to the public and the press and no later than 30 days after the filing of the motion. A party may seek to hold all or

a portion of the hearing on a Motion to Make Court Records Confidential *in camera* if necessary to protect any of the interests listed in Interim Rule of Judicial Administration 2.420(c)(9)(A). The moving party will be responsible for ensuring that a complete record of any hearing be created either by use of a court reporter or by any recording device that is provided as a matter of right by the court.

4. A sealing order issued by a court must state with specificity the grounds for sealing and the findings of the court that justify sealing. The order granting the sealing request must contain as much detail as possible including the parties' names or pseudonyms, whether the progress docket is to be confidential, the court records that are to be confidential and the names of persons who are permitted access. The order must contain specific findings that the degree, duration, and manner of confidentiality are no broader than necessary to protect the interests listed in Interim Rule of Judicial Administration 2.420(c)(9)(A). The order will not reveal the information that is to be made confidential. The order will direct whether the progress docket is to be sealed.
5. If an order sealing a court file is silent as to whether the progress docket is to be sealed, the clerk shall seal the court file but maintain a public docket with no alternation of the parties' names. In accordance with Interim Rule of Judicial Administration 2.420(c)(9) the Clerk shall NOT seal the case number, docket number, or any other identifying number of a case that is sealed by court order.
6. The Court will direct the Clerk to post the order sealing the court file on the Clerk's website as well as on the bulletin board located at the Main Courthouse within ten (10) days following the entry of the order and must remain posted in both locations for at least 30 days.
7. A nonparty may file a written motion to vacate a sealing order in accordance with Florida Rule of Judicial Administration 2.420 (2007); In re Amendments to Florida Rule of Judicial Admin. 2.420 – Sealing of Court Records, 954 So.2d 16 (Fla. 2007).
8. A public hearing must be held on any contested motion to vacate a sealing order. The court, in its discretion, may hold a hearing on an uncontested motion. While challenge hearings must be open to the public, a party may seek to hold a portion or all of the hearing *in camera* if necessary to protect the interests listed in Interim Rule of Judicial Administration 2.420(c)(9)(A). The movant must ensure that a record of the hearing is made. The movant seeking to vacate an order bears the burden of showing that the order is unsound.
9. If the identity of a party is to remain confidential, all applicable pleadings will be filed with the following designation on the front of the pleading: "Confidential Party – Court Service Requested". The judicial assistant for the division in which the pleading is filed is responsible for providing such notice to the applicable parties. The judicial assistant is to provide such notice so as not to inadvertently reveal the identity of the confidential party.

10. This administrative rule does NOT address the confidentiality of records admitted into evidence and it does NOT pertain to the statutory process for sealing or expunging criminal history records. Motions to Seal pleadings or court records filed in a criminal case must, however, comply with this Administrative Order. This administrative order also does NOT pertain to court records that are confidential pursuant to statute, rule or other legal authority.
11. If a motion to seal is not made in good faith and is not supported by a sound legal and factual basis, the court may impose sanctions upon the movant.
12. The Clerk of Court, or a deputy clerk, is hereby authorized to open any court file sealed by operation of law or court order for the purpose of filing documents pertinent to the particular file, as well as for microfilming or imaging files, and for preparing a record on appeal. The Clerk, or deputy clerk, shall reseal the file immediately upon completion of the task, with the date and time of the unsealing clearly marked on the outside of the file along with the initials of the deputy clerk.
13. In all matters except adoption and surrogacy cases, the Clerk of Court will make the contents of a sealed file available to adult parties and their attorneys of record. The contents of adoption and surrogacy files shall not be made available to any person absent a court order.

DONE AND SIGNED in Chambers in West Palm Beach, Palm Beach County, Florida
this 29 day of September, 2008.


Kathleen J. Kroll
Chief Judge

supersedes admin. order 2.032 10/06

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