

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
IN AND FOR SARASOTA COUNTY, FLORIDA

IN RE: The Matter of

PEARL VEGA,
Petitioner,

and

TRACY McGRADY,
Respondent.

Case Number 2006 DR 007252 NC
Family Division FF

FILED FOR RECORD
2007 AUG 17 PM 9:18
CLERK OF CIRCUIT COURT
SARASOTA COUNTY FL

**ORDER DENYING
JOINT STIPULATION ON MOTION TO SEAL**

THIS MATTER came before the Court on August 15, 2007. During the course of the final evidentiary hearing in this case, the Petitioner and Respondent filed a *Joint Stipulation on Motion to Seal* and an *Amended Joint Stipulation on Motion to Seal* pursuant to Florida Rule of Judicial Administration 2.420. The parties are jointly requesting the Court to seal “the courtroom and court record” in this Paternity case. No party requested and the Court did not hold a hearing on the parties’ joint motion.

The Court has reviewed the pleadings and considered the memoranda of counsel. Based on the facts and circumstances of this case and the applicable rules, statutes and case law, the Court makes the following findings of fact and conclusions of law:

The parties’ *Amended Joint Stipulation on Motion to Seal* is denied. The parties’ joint

Case: 2006 DR 007252 NC
00037926096
Dkt: GRB

motion is defective and does not comply with the requirements of Florida Rule of Judicial Administration 2.420. The motion fails to establish why the entire court record must be sealed in order to protect the parties' interests.¹

The parties' written motion is captioned *Amended Joint Stipulation on Motion to Seal* and simply states that

1. This Court has jurisdiction over the subject matter and the parties to this action.
2. That the parties to the above styled action stipulate to the entry of an Order by the Court sealing the courtroom and court record.
3. This motion is being made in good faith and is supported by a sound factual and legal basis.

In support of their motion, the parties submitted a *Joint Memorandum of Law in Support of Closure of Proceedings and Sealing of Records*. Beyond the parties' broad, blanket request to seal the entire "court record," neither the parties' joint stipulation nor their memorandum of law lists with any specificity (1) the *individual* or *specific* court records they seek to make confidential; (2) the factual or legal basis for making *individual* or *specific* documents confidential; (3) the degree, duration and manner of confidentiality necessary to protect the parties' interests or (4) whether less restrictive measures are available to protect the parties' interests.^{2, 3} The parties have also failed to establish a factual or legal reason as to why the rest

¹ **Rule 2.420(d) Request to Make Circuit and County Court Records in Noncriminal Cases Confidential.**

(1) A request to make circuit and county court records in noncriminal cases confidential under subdivision (c)(9) must be made in the form of a written motion captioned "Motion to Make Court Records Confidential." A motion made under this subdivision must:

(A) identify the particular court records the movant seeks to make confidential with as much specificity as possible without revealing the information to be made confidential; and

(B) specify the bases for making such records confidential.

Any motion made under this subdivision 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. The court records that are subject to a motion made under this subdivision must be treated as confidential by the clerk pending the court's ruling on the motion. Notwithstanding any of the foregoing, the court may not make confidential the case number, docket number, or other number used by the clerk's office to identify the case file.

² **Rule 2.420(c) Exemptions.**

Any court record determined to be confidential in case decision or court rule on the grounds that

(9) Any court record determined to be confidential in case decision or court rule on the grounds that:

(A) confidentiality is required to:

(i) prevent a serious and imminent threat to the fair, impartial, and orderly administration of justice;

of the court proceedings also need to be closed at this time. Accordingly, no part of the court record will be made confidential at this time.

The Clerk is directed not to release or otherwise publish any exhibits that were identified by the clerk but not introduced as evidence at the final hearing. The parties may request and the Clerk shall return such exhibits within ten (10) days of the date of this Order. Any returned exhibits shall be removed from and no longer considered to be a part of the court record. The Clerk is further directed to remove the images of the withdrawn exhibits from the electronic record.

DONE AND ORDERED in Chambers in Sarasota County, Florida, this September 14, 2007.



DONNA PADAR BERLIN
Circuit Judge

-
- (ii) protect trade secrets;
 - (iii) protect a compelling government interest;
 - (iv) obtain evidence to determine legal issues in a case;
 - (v) avoid substantial injury to innocent third parties;
 - (vi) avoid substantial injury to a party by disclosure of matters protected by a common law or privacy right not generally inherent in the specific type of proceeding sought to be closed;
 - (vii) comply with established public policy set forth in the Florida or United States Constitution or statutes or Florida rules or case law.

(B) the degree, duration, and manner of confidentiality ordered by the court shall be no broader than necessary to protect the interests set forth in subdivision (a);

(C) no less restrictive measures are available to protect the interests set forth in subdivision (A).

The factors set forth in 2.420(c)(9) are derived from the holding in *Barron v. Florida Freedom Newspapers, Inc.*, 531 So. 2d 113, 118 (Fla. 1988).

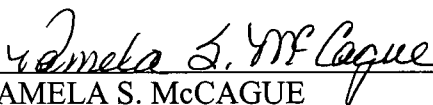
³ At this time, as the Court writes this Order, the clerk's file in this case consists of seven (7) volumes and is approximately twelve (12) inches thick. While paternity is no longer a contested issue, the parties disagree over the appropriate amount of child support to be awarded in this case. The documents contained in the clerk's file include but are not limited to pleadings, deposition transcripts, correspondence, notices and evidence marked for the final hearing and contain financial, medical and other potentially sensitive information.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on September 14, 2007, a true and conformed copy of the foregoing has been furnished as follows to the following parties by FAX and US MAIL:

MARK FLAHERTY (Attorney for the Petitioner)

MARK SESSUMS (Attorney for the Respondent)



PAMELA S. McCAGUE
Judicial Assistant to Judge Berlin