

**IN THE CIRCUIT COURT FOR THE FIFTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA**

**ADMINISTRATIVE ORDER NO.: A-2010-11-A
AMENDED ADMINISTRATIVE ORDER REGARDING EXPUNCTION
AND SEALING
OF COURT RECORDS/FILES
AND RESCINDING ADMINISTRATIVE ORDER
NUMBER A-2008-26**

This Administrative Order implements the Florida Supreme Court's amendments to Rule 2.420, Florida Rules of Judicial Administration.

In Re: Amendments to Fla. R. Jud. Admin. 2.420 and the Florida Rules of App. P., 35 Fla. L. Weekly S180a (Fla. Mar. 18, 2010).

Pursuant to the Chief Judge's authority under Rule 2.215, Florida Rules of Judicial Administration, to exercise administrative supervision over the courts within the circuit and to control dockets; and in order to provide a uniform method for ensuring the confidentiality of court records when such confidentiality is required by law or found warranted by court order, to ensure that materials are not unintentionally designated as confidential, and to provide a procedure whereby the public can request review of orders to seal, it is hereby

ORDERED that:

- I. All requests and orders regarding sealing trial court records shall comply with Rule 2.420, Florida Rules of Judicial Administration. Petitions to seal or expunge any criminal court record must conform to the requirements on Florida Rules of Criminal Procedure, Rule 3.692 and Florida Statutes, sections 943.0585 and 943.059.

- II. Filers of court records at the time of filing shall indicate whether any confidential information is included within the document being filed; identify the confidentiality provision that applies to the identified information; and identify the precise location of the confidential information within the document being filed. A form

Notice of Confidential Information within Court Filing, accompanies Rule 2.420.

- III. The Clerks of the Circuit and County Courts of the Fifth Circuit will use the following definitions:
- (A) “Court records,” which are the contents of the court file, including the progress docket and other similar records generated to document activity in a case, transcripts filed with the Clerk , documentary exhibits in the custody of the Clerk , and electronic records, videotapes, or stenographic tapes of depositions or other proceedings filed with the Clerk , and electronic records, videotapes, or stenographic tapes of court proceedings.
 - (B) “Criminal history record” consists of information filed with the Clerk that consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal charges and dispositions.
 - (C) “Progress docket” consists of the records generated to documents activity in a case.
 - (D) “Expunction” of a criminal history means the court-ordered destruction of a record including case style, case number, and progress docket by the Clerk .
 - (E) “Sealing” of a criminal history record means the court-ordered removal of a record, or a portion of a record, by the Clerk from public view and availability. The Clerk will remove only the record or portions specified in the court order, and will preserve the record or portions thereof securely, so that they are inaccessible to any person not having a legal right of access.
- IV. The Court shall not order a criminal justice agency to seal a criminal history record until the person seeking to seal a criminal history record has complied with Florida Statute 943.059 (2). A criminal history record that relates to a violation of Florida Statutes, sections 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s.

916.1075, a violation enumerated in s. 907.041, or any violation specified as a predicate offense for registration as a sexual predator pursuant to s. 775.21, without regard to whether that offense alone is sufficient to require such registration, or for registration as a sexual offender pursuant to s. 943.0435, may not be sealed, without regard to whether adjudication was withheld, if the defendant was found guilty of or pled guilty or nolo contendere to the offense, or if the defendant, as a minor, was found to have committed or pled guilty or nolo contendere to committing the offense as a delinquent act.

V. Per Rule 2.420(d)(1)(B)(i)-(xix), matters which should be automatically sealed by the Clerk of Court without necessity of a court order, include:


- (1) Chapter 39 records relating to dependency matters, termination of parental rights, guardians ad litem, child abuse, neglect, and abandonment. § 39.0132(3), Fla. Stat.
- (2) Adoption records. § 63.162, Fla. Stat.
- (3) Social Security, bank account, charge, debit, and credit card numbers in court records. § 119.0714(1)(i)-(j), (2)(a)-(e), Fla. Stat.
- (4) HIV test results and patient identity within the HIV test results. § 381.004(3)(e), Fla. Stat.
- (5) Sexually transmitted diseases-test results and identity within the test results when provided by the Department of Health or the department's authorized representative. § 384.29, Fla. Stat.
- (6) Birth and death certificates, including court-issued delayed birth certificates and fetal death certificates. §§ 382.008(6), 382.025(1)(a), Fla. Stat.
- (7) Identifying information in petition by minor for waiver of parental notice when seeking to terminate pregnancy. § 390.01116, Fla. Stat.

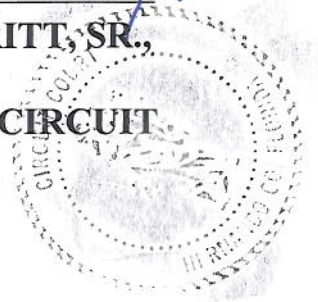
- (8) Identifying information in clinical mental health records under the Baker Act. § 394.4615(7), Fla. Stat.
- (9) Records of substance abuse service providers which pertain to the identity, diagnosis, and prognosis of and service provision to individuals who have received services from substance abuse service providers. § 397.501(7), Fla. Stat.
- (10) Identifying information in clinical records of detained criminal defendants found incompetent to proceed or acquitted by reason of insanity. § 916.107(8), Fla. Stat.
- (11) Estate inventories and accountings. § 733.604(1), Fla. Stat.
- (12) Victim's address in domestic violence action on petitioner's request. § 741.30(3)(b), Fla. Stat.
- (13) Information identifying victims of sexual offenses, including child sexual abuse. §§ 119.071(2)(h), 119.0714(1)(h), Fla. Stat.
- (14) Gestational surrogacy records. § 742.16(9), Fla. Stat.
- (15) Guardianship reports and orders appointing court monitors in guardianship cases. §§ 744.1076, 744.3701, Fla. Stat.
- (16) Grand jury records. Ch. 905, Fla. Stat.
- (17) Information acquired by courts and law enforcement regarding family services for children. § 984.06(3)-(4), Fla. Stat.
- (18) Juvenile delinquency records. §§ 985.04(1), 985.045(2), Fla. Stat.
- (19) Information disclosing the identity of persons subject to tuberculosis proceedings and records of the Department of Health in suspected tuberculosis cases. §§ 392.545, 392.65, Fla. Stat.

- VI. A form “Motion to Determine Confidentiality of Trial Court Records” accompanies this Administrative Order. See Attachment “A.”
- VII. Except when a motion filed under Fl.R.Jud.Admin.2.420(d)(1) represents that all parties agree to all of the relief requested, the court must, as soon as practicable but no later than 30 days after the filing of a motion under this subdivision, hold a hearing before ruling on the motion. Whether or not any motion filed under Fl.R.Jud.Admin.2.420 (d)(1) is agreed to by the parties, the court may in its discretion hold a hearing on such motion. Any hearing held under this subdivision must be an open proceeding, except that any party may request that the court conduct all or part of the hearing in camera to protect the interests set forth in Fl.R.Jud.Admin.2.420 (c)(9)(A). The moving party shall be responsible for ensuring that a complete record of any hearing held pursuant to this subdivision 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. The court may in its discretion require prior public notice of the hearing on such a motion in accordance with the procedure for providing public notice of court orders set forth in Fl.R.Jud.Admin.2.420 (d)(4) or by providing such other public notice as the court deems appropriate.
- VIII. A form “Order Granting/Denying Motion to Determine Confidentiality of Court Records” pursuant to Rule 2.420(c)(9) accompanies this Administrative Order. See Attachment “B.”
- IX. A form “Notice of Entry of Order Determining Records to be Confidential” accompanies this Administrative Order. See Attachment “C.”
- X. Posting of Orders Determining Records to be Confidential/Authorizing Sealing

- XI. The Clerks of Court in the Fifth Judicial Circuit is hereby directed to post a copy of order(s) authorizing sealing/determining records to be confidential within 10 days following entry of the order on the public bulletin board of the court facility where the order was issued and on the Clerk's website for no less than 30 days, in accordance with rule 2.420.
- XII. The Clerk shall retain as confidential all orders to seal any orders of expunction, which can be made available only upon subsequent order of the Court.
- XIII. Unless otherwise provided by law, the Clerk of the Court may open any court file sealed by operation of law or Court Order solely for the purposes of filing documents pertinent to the particular file as well as for microfilming or imaging files.
- XIV. **ADMINISTRATIVE ORDER A-2008-26 IS HEREBY RESCINDED.**

IT IS SO ORDERED in Chambers, in Brooksville, Hernando County, Florida, on this 12th day of April, 2011.


**DANIEL B. MERRITT, SR.,
CHIEF JUDGE
FIFTH JUDICIAL CIRCUIT**



**ATTACHMENT A
IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT IN AND
FOR _____ COUNTY, FLORIDA**

_____ ,

Case No. _____

v

**MOTION TO DETERMINE THE CONFIDENTIALITY OF TRIAL
COURT RECORDS**

The undersigned, by and through his/her attorney, moves the Court pursuant to Florida Rule of Judicial Administration 2.420__ for an order determining the confidentiality of court records, and for an order sealing the same.

a. The undersigned's attorney has given written notice of the subject motion to all affected non-parties [*specify names of non-parties*], and filed copies of the notice provided. The notice identified this case by docket number; described the confidential information and the location of the information in the court record; and advised that if the motion is denied by the court then the subject material will not be treated as confidential by the clerk.

b. The particular court records or portion of a record that the movant seeks to have _____ determined _____ as _____ confidential _____ is:

[Describe with as much specificity as possible without revealing the information subject to the confidentiality determination.]

c. The movant seeks an order sealing the following information relative to this _____ [specify type of case, such as civil action, dissolution of marriage, paternity, etc.] case: [*select all that apply*]

_____ the party's name on the progress docket.

_____ particular documents within the court file, specifically _____.

_____ the entire court file, but not the progress docket.

_____ the entire court file and the progress docket.

d. The legal bases for determining the court records to be confidential are as follows: _____.

[*Cite to specific rule, statute, case(s) that apply.*]

e. The specific legal authority and applicable legal standards for determining such court records to be confidential are: _____

_____.

f. [*For rule 2.420(c)(9) motions*] Confidentiality of the [information sought to be sealed] is required to protect the following interest(s): [*select any/all that apply*]

_____ 1. Preventing a serious and imminent threat to the fair, impartial, and orderly administration of justice, specifically:

_____.

_____ 2. A trade secret.

_____ 3. A compelling government interest, specifically

_____.

- _____ 4. Obtaining evidence to determine the legal issues in a case;
- _____ 5. Avoiding substantial injury to innocent third parties, specifically _____.
- _____ 6. Avoiding substantial injury to a party by the disclosure of matters protected by a common law or privacy right not generally inherent in this type of proceeding, specifically: _____.
- _____ 7. Complying with established public policy set forth in the Florida or United States Constitution or statutes or Florida rules or case law, specifically: _____ [cite].

g. There is no less restrictive measure available to protect this/these interest(s), and the degree, duration and manner of confidentiality ordered herein are no broader than necessary to protect the interest(s).

Wherefore, the undersigned **REQUESTS** that:

The Court [*schedule or not schedule*] this motion for a hearing.

The Court find that _____ documents are confidential and for the Court to seal the following materials related to this matter and to keep such materials from public access: [*select all that apply*]

___ 1. The party's name on the progress docket. On the public progress docket, the Clerk of the Circuit Court shall substitute the following for _____ the _____ party's name: _____ . Further, the Clerk shall ensure that the party's name is redacted from all public materials in the file and that the final judgment is recorded in a manner that does not reveal the identity of the party. However, the progress docket and the file shall otherwise remain available to the public.

___ 2. The following documents within the court file:_____. However, the file and progress docket shall otherwise remain available to the public subject to any substitution of a party's name set forth above.

___ 3. The entire court file. However, the progress docket shall remain open to the public subject to any substitution of a party's name set forth above.

___ 4. The entire court file and the progress docket. The progress docket shall not be available on any public information system. However, the case number shall remain public.

Submitted and filed this ___ day of _____, 20__.

Attorney's Signature

I certify that this motion is made in good faith and is supported by a sound factual and legal basis.

Party's Signature/Attorney's
Signature

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was furnished by U.S. Mail/personal service to: _____
on _____, 20__.

Attorneys' Name
Florida Bar No. _____
Address _____
Phone _____
Fax _____

ATTACHMENT B
IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT IN AND
FOR _____ COUNTY, FLORIDA

_____, Case No. _____

v

ORDER GRANTING/DENYING MOTION TO DETERMINE TRIAL COURT RECORDS CONFIDENTIAL PURSUANT TO FLORIDA RULE OF JUDICIAL ADMINISTRATION 2.420(c)(9)

THIS MATTER is before the Court on the Motion to Determine Trial Court Records Confidential filed by _____ [*insert name of party*] pursuant to rule 2.420(c)(9), Florida Rule of Judicial Administration.

_____ [*insert name of party*] seeks an order sealing the following information relative to this _____ [specify type of case, such as civil action, dissolution of marriage, paternity, etc.] case: [*select all that apply*]

_____ the party's name on the progress docket.

_____ particular documents within the court file, specifically _____.

_____ the entire court file, but not the progress docket.

_____ the entire court file and the progress docket.

This motion [*was/was not*] contested and a hearing [*was/was not*] conducted [*if conducted, include date.*]

Having considered the arguments of the parties, legal authority, and otherwise being fully advised, the Court **DENIES** the motion because the moving

party has failed to establish that confidentiality of the information sought to be sealed is necessary to protect any interest under Rule 2.420(c).

-- OR --

The Court **GRANTS** the motion as follows:

1. Confidentiality of the [information sought to be sealed] is required to protect the following interest(s): [*select all that apply*]

_____ a. Preventing a serious and imminent threat to the fair, impartial, and orderly administration of justice, specifically:

_____.

_____ b. A trade secret.

_____ c. A compelling government interest, specifically

_____.

_____ d. Obtaining evidence to determine the legal issues in a case;

_____ e. Avoiding substantial injury to innocent third parties, specifically _____.

_____ f. Avoiding substantial injury to a party by the disclosure of matters protected by a common law or privacy right not generally inherent in this type of proceeding, specifically:

_____.

_____ g. Complying with established public policy set forth in the Florida or United States Constitution or statutes or Florida rules or case law, specifically: _____.

2. The Court further finds that no less restrictive measure is available to protect this/these interest(s), and that the degree, duration and manner of confidentiality ordered herein are no broader than necessary to protect the interest(s).

Wherefore, it is hereby **ORDERED** that:

The Clerk of the Circuit Court is hereby directed to seal immediately the following materials related to this matter and to keep such materials from public access: [*select all that apply*]

___ 1. The party's name on the progress docket. On the public progress docket, the Clerk of the Circuit Court shall substitute the following for the party's name:_____. Further, the Clerk shall ensure that the party's name is redacted from all public materials in the file and that the final judgment is recorded in a manner that does not reveal the identity of the party. However, the progress docket and the file shall otherwise remain available to the public.

___ 2. The following documents within the court file:_____. However, the file and progress docket shall otherwise remain available to the public subject to any substitution of a party's name set forth above.

___ 3. The entire court file. However, the progress docket shall remain open to the public subject to any substitution of a party's name set forth above.

___ 4. The entire court file and the progress docket. The progress docket shall not be available on any public information system. However, the case number shall remain public.

It is further **ORDERED** that any materials sealed pursuant to this Order shall be conditionally disclosed upon the entry of a further order by this Court finding that such opening is necessary for purposes of judicial or governmental accountability or First Amendment rights.

It is further **ORDERED** that any materials sealed pursuant to this Order may otherwise be disclosed only as follows:

1. to any judge of this Circuit for case-related reasons;
2. to the Chief Judge or his or her designee;
3. to adult parties or their attorneys of record; or
4. by further order of the Court.

It is further **ORDERED** that, within 10 days of the date of this Order, the Clerk shall post a copy of this Order on the bulletin board of [*specify courthouse at which order is being signed*] and the Clerk's website for a period of 30 days to provide public notice.

It is further **ORDERED** that the Clerk is hereby authorized to unseal any materials sealed pursuant to this Order for the purpose of filing, microfilming or imaging files, or transmitting a record to an appellate tribunal. The materials shall be resealed immediately upon completion of the filing.

DONE AND ORDERED in Chambers, at [*Courthouse Location*], this ____ day of _____, 20__.

_____/s/

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was furnished by U.S. Mail/personal service to: _____ on _____, 20__.

Judicial Assistant
Address _____

ATTACHMENT C

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT IN AND
FOR _____ COUNTY, FLORIDA

Case No. _____

v.

NOTE: INCLUDE CASE STYLE ONLY IN CASES WHERE A DOCUMENT OR DOCUMENTS ALONE HAVE BEEN SEALED. IN CASES WHERE A FILE, FILE AND DOCKET, OR A PARTY'S IDENTITY HAS BEEN SEALED, REDACT THE CASE STYLE.

**NOTICE OF ENTRY OF ORDER DETERMINING CONFIDENTIALITY
OF TRIAL COURT RECORDS**

BE ADVISED that on the _____ day of _____, 20____, the Court entered an Order in the above-referenced matter authorizing the sealing of court documents pursuant to Florida Rule of Judicial Administration 2.420(c)(9). Any person wishing to contest this Order shall file a motion with the Clerk of the Circuit Court.

Dated: _____

(NAME), Clerk of the Circuit Court)

By: _____
Deputy Clerk