

IN THE CIRCUIT COURT OF THE
EIGHTEENTH JUDICIAL CIRCUIT
OF FLORIDA

ADMINISTRATIVE ORDER NO:
20-05
SUPERSEDES 15-24

IN RE: CLERK OF COURT - CONFIDENTIALITY OF COURT RECORDS

Florida Rule of Judicial Administration 2.420 regulates public access to and the protection of judicial branch records.

Pursuant to the Chief Judge's authority under Article V, section 2, Florida Constitution, Rule 2.120(c) and 2.215(e), Florida Rules of Judicial Administration, and section 43.26, Florida Statutes, 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 determining confidentiality of records, it is

ORDERED:

1. All requests and orders regarding the confidentiality of trial court records shall comply with Rule 2.420, Florida Rules of Judicial Administration.
2. Pursuant to Rule 2.420(d)(1)(A), the clerk of court shall designate and maintain the confidentiality of any information contained within a court record described by any of subdivisions (c)(1) through (c)(6) of Rule 2.420. In order to further facilitate the efficient administration of justice, when an arrest warrant is issued in an existing case, the Clerk of the Court shall keep the related arrest warrant, affidavit in support of the arrest warrant, progress docket records related to the arrest warrant and the affidavit in support of the arrest warrant, and associated document images confidential and restricted. If a warrant is issued that generates a new case, the Clerk of Court shall keep the entire case and case information generated from an arrest warrant, including the defendant's name, case number, and the content of the case file, including document images confidential and restricted. All case information and document images that are marked confidential and restricted as the result of a warrant shall remain confidential and restricted until the defendant is arrested and served with the warrant or until one year has elapsed since the issuance of the warrant or until further order of the Court. The Office of the State Attorney and other law enforcement

agencies may release the name of the defendant(s) and any charges related thereto for the purpose of aiding in the apprehension of the defendant(s) or to prevent flight to avoid apprehension.

3. Rule 2.420(d)(2), Florida Rules of Judicial Administration, provides that the filer of any document containing confidential information shall, at the time of filing, file with the clerk a “Notice of Confidential Information within Court Filing.” A form for such notice is appended to Rule 2.420.
4. To the extent a “Motion to Determine Confidentiality of Court Records” is required under Rule 2.420, a form “Motion to Determine Confidentiality of Court Records” accompanies this Administrative Order. (See Attachment A.)
5. To the extent a hearing is required under Rule 2.420, it is the movant’s responsibility to contact the judicial assistant where the case is assigned no later than 5 business days of filing such motion so that a hearing can be scheduled in the timeframe set forth by the rule.
6. This paragraph applies to Brevard County Only: If there has been no hearing set within 30 days of the motion’s filing, or an order entered on the motion within 60 days of the filing of such motion, the clerk shall so notify the assigned judge and the filer of the motion. Any outstanding motions to determine confidentiality of court records that are pending for more than 60 days shall be reported by the assigned judge to the Chief Judge pursuant to Rule 2.215(f).
7. A form “Order Denying Motion to Determine Confidentiality of Court Records Pursuant to Fla. R. Jud. Admin. 2.420(c)(9)” accompanies this Administrative Order. (See Attachment B). A Form “Order Granting Motion to Determine Confidentiality of Court Records Pursuant to Fla. R. Jud. Admin. 2.420(c)(9)” accompanies this Administrative Order. (See Attachment C).
8. Pursuant to Rule 2.420(e)(4), within 10 days following the entry of an order granting a request to determine the confidentiality of court records in noncriminal cases, the clerk must post a copy of the order on the clerk’s website and in a prominent public location in the courthouse; the order must remain posted in both locations for no less than 30 days. This subdivision shall not apply to orders determining that court records are confidential under subdivision (c)(7) or (c)(8).

DONE and ORDERED this 16th day of January, 2020.

LISA DAVIDSON
LISA DAVIDSON
CHIEF JUDGE

Distribution:

All Circuit and County Judges (Brevard and Seminole County)
Court Administration (Brevard & Seminole County)
Clerk of Court (Brevard & Seminole County)
State Attorney (Brevard & Seminole County)
Public Defender (Brevard & Seminole County)
Sheriff (Brevard & Seminole County)
Bar Association (Brevard & Seminole County)
Law Library (Brevard & Seminole County)

ATTACHMENT A

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

CASE NO: _____

Plaintiff/Petitioner,

v.

Defendant/Respondent.

_____ /

MOTION TO DETERMINE CONFIDENTIALITY OF 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.

- 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 without revealing it; specified 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/are:

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

- c. The movant seeks an order determining confidentiality of 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. *[For rule 2.420(c)(7) or (c)(8) motions]* 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 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 finds that _____ documents are confidential and the following materials related to this matter shall be reserved 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 party's name: _____. Further, the Clerk shall ensure that the party's name is redacted from all public materials in the file and in the official records, if applicable, 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 (e-mail)(delivery)(mail)(fax) on: _____

(See Rule 2.420(k)), _____, on _____, 20____.

Name _____
Address _____
Phone _____
Florida Bar No. _____
E-mail Address _____

ATTACHMENT B

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

CASE NO: _____

Plaintiff/Petitioner, v.

Defendant/Respondent.

_____ /

**ORDER DENYING MOTION TO DETERMINE CONFIDENTIALITY OF COURT RECORDS
PURSUANT TO FLA. R. JUD. ADMIN. 2.420(c)(9)**

THIS MATTER is before the Court on the Motion to Determine Confidentiality of Court Records filed by _____ [*insert name of filer*] pursuant to rule 2.420(c)(9), Florida Rule of Judicial Administration, who seeks an order determining the confidentiality of 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* conducted on _____.

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 is necessary to protect any interest under Rule 2.420(c)(9).

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

(Judge Signature)

ATTACHMENT C

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

CASE NO: _____

Plaintiff/Petitioner, v.

Defendant/Respondent.

_____ /

**ORDER GRANTING MOTION TO DETERMINE CONFIDENTIALITY OF COURT RECORDS
PURSUANT TO FLA. R. JUD. ADMIN. 2.420(c)(9)**

THIS MATTER is before the Court on the Motion to Determine Confidentiality of Court Records filed by _____ [*insert name of filer*] pursuant to rule 2.420(c)(9), Florida Rule of Judicial Administration, who seeks an order determining the confidentiality of 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 and the progress docket.

This motion [____ *was* / _____ *was not*] contested and a hearing

_____ was not conducted

_____ was conducted on _____.

Having considered the arguments of the parties, legal authority, and otherwise being fully advised, the Court **GRANTS** the motion as follows:

1. Confidentiality of the information 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).

IT IS HEREBY ORDERED:

The Clerk of the Circuit Court is hereby directed to treat as confidential immediately the following materials related to this matter and to keep such materials from public access: [*select only one*]

- _____ 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 treated as confidential pursuant to this Order may 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 authorized government agencies;
4. to the following specific individuals: _____ ; or
5. 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 in a prominent public location _____ [*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 open any materials determined to be confidential 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 treated as confidential immediately upon completion of the filing.

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

(Judge Signature)