

IN THE COURT OF COMMON PLEAS OF CRAWFORD COUNTY,
PENNSYLVANIA

FILED
2023 SEP 27 AM 9:07
PROTHONOTARY
CRAWFORD COUNTY, PA

[UNKNOWN],
Plaintiff,

No. FD 2023-208.

Judge Francis Schultz

[UNKNOWN]
Defendants

THE MEADVILLE TRIBUNE'S MOTION TO INTERVENE AND UNSEAL

The Meadville Tribune hereby moves for leave to intervene in the above-captioned proceeding for the limited purpose of contesting the sealing of the docket in its entirety. This Motion is made on the following grounds:

1. The Meadville Tribune ("Tribune") is Crawford County's leading publication for news, photo and multimedia coverage. The Tribune publishes Monday through Saturday in print format and online at www.meadvilletribune.com. Its offices are located at 947 Federal Court, Meadville, Pennsylvania 16335.

2. Tribune reporters routinely use judicial records of civil and criminal proceedings from Crawford County Magisterial District Courts and the Crawford Court of Common Pleas to provide their readers with timely and important information about news impacting their communities.

3. Tribune Reporter Keith Gushard regularly reviews filings and pleadings in the Crawford County Court of Common Pleas Prothonotary's office.

4. On or about July 25, 2023, upon performing a routine review of docket information, Mr. Gushard encountered a divorce/equitable distribution case at the above-captioned docket number. However, no parties' names were listed, and the docket was marked "SEALED." See docket entry page, attached hereto as Exhibit A.

5. On September 8, 2023, Mr. Gushard attempted to obtain a copy of an order sealing the aforementioned docket. The Crawford County Prothonotary declined to provide Mr. Gushard the judicial record upon request and informed him that because the docket is sealed in its entirety a petition would have to be filed with the court to request that the sealing order be unsealed.

6. Third parties have standing to challenge the improper sealing of judicial documents. *See, e.g., United States v. Antar*, 38 F.3d 1348, 1350 (3d Cir. 1994) (granting third party news organization intervenors' request for access to a voir dire transcript).

7. The Tribune has standing to intervene in this proceeding for the limited purpose of asserting the public's rights of access to documents filed with the court and to ensure that any denial of access is based upon the trial court's "articulation of the factors taken in consideration" to determine whether there is a right of access and whether that right has been rebutted by recognized countervailing interests. *Commonwealth v. Fenstermaker*, 530 A.2d 414, 421 (Pa. 1987); *see also Commonwealth v. Upshur*, 924 A.2d 642, 651 (Pa. 2007) ("[T]he trial court . . . must . . . place on the record its reasoning and the factors relied upon in reaching its decision.").

8. When assessing whether closure is necessary, "the court should issue individualized, specific, particularized findings on the record that closure is essential to preserve higher values and is narrowly tailored to that interest." *Commonwealth v. Curley*, 189 A.3d 467, 473 (Pa. Super. Ct. 2018) (discussing constitutional right of access).

9. Pennsylvania courts have recognized that, while divorce proceedings may be closed to protect the private rights of the parties, "[t]he discretion of the court to close a divorce hearing . . . is not absolute," and "Good cause" must be established before the case is sealed. *Katz v. Katz*, 514 A.2d 1374, 1380 (Pa. Super. Ct. 1986).

10. Courts are required to make “document-by-document findings” and not simply “issue[] a blanket conclusion.” *Id.* In addition, the trial court must articulate on the record that “alternatives to closure” were considered and “explicitly state its reasons on the record for rejecting such alternatives.” *Commonwealth v. Buehl*, 462 A.2d 1316, 1322 (Pa. Super. Ct. 1983) (quoting *United States v. Criden*, 675 F.2d 550, 560 (3d Cir. 1982)); *see also Commonwealth v. Long*, 922 A.2d 892, 906 (Pa. 2007) (“[C]losure must be supported by specific findings demonstrating that there is a substantial probability that an important right will be prejudiced by publicity and that reasonable alternatives to closure cannot adequately protect the right.”).

11. Since the sealing order in this case has itself been sealed, it is impossible to determine if the reasons for closure are adequate and if alternatives to closure were considered. As such, the court has offered no explanation to the public—much less individualized findings—to support the drastic measure of sealing all basic information on this matter.

12. The on-the-record articulation of reasons for closure must be done “*before* ordering closure” *Buehl*, 462 A.2d at 1323.

Only in that way will those who oppose closure be able to respond. Given a chance to respond, they may be able to persuade the court that it is mistaken, or they may be able to suggest an alternative not thought of by the court but that when thought of, is found to be satisfactory.

Id.

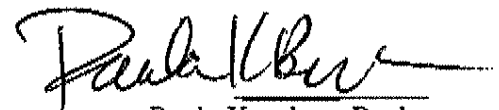
13. In considering whether to seal records, “the trial court must inspect the items in camera” before determining whether to restrict access to them. *Upshur*, 924 A.2d at 651 (citing *PG Publ’g Co. v. Commonwealth*, 614 A.2d 1106, 1110 (Pa. 1992)).

RELIEF SOUGHT

WHEREFORE, the Tribune has a constitutional and common law right to access the judicial records in these matters. To the extent countervailing interests overcome the Tribune's constitutional and common law rights of access, any sealing must be no broader than necessary to serve those interests and must be supported by specific, on-the-record factual findings. The Meadville Tribune respectfully requests that the Court grant its motion to intervene and enter an order unsealing all sealed records in this matter including the docket and the court's sealing order.

Dated: September 27, 2023

Respectfully submitted,



Paula Knudsen Burke

PA ID 87607

THE REPORTERS COMMITTEE FOR

FREEDOM OF THE PRESS

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(717) 370-6884

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Counsel for Proposed Intervenor

The Meadville Tribune

EXHIBIT A



CRAWFORD COUNTY PROTHONOTARY'S OFFICE

Public Web User Home Help

Search for a Case [Hide Advanced Options](#)

Search by Name or Case Number

FD 2023-208

Advanced Filtering Options [Reset](#)

Only Cases Opened within this Date Range:

Start: Select Date End: Select Date

Display Contact Address

Only Cases of this Category:

All Case Categories

Only Cases with Judgments

Only Participants of this Category:

All Participant Categories

Include Attorneys in Name Search

Sort Results By:

Default Sort Order

Returned 1 Case

Case Number	Case Participants	Case Category	Opened	Status
FD 2023-208	SEALED	Divorce/Equitable Distribution	07/24/2023 46 Days	OPEN

**IN THE COURT OF COMMON PLEAS OF CRAWFORD COUNTY,
PENNSYLVANIA**

[UNKNOWN],
Plaintiff,

[UNKNOWN]
Defendants

:
:
: No. FD 2023-208.
:
: Judge Francis Schultz
:
:

ORDER

AND NOW, this _____ day of _____, 2023, upon consideration of The Meadville
Tribune's Motion to Intervene and Unseal it is **ORDERED** as follows:

1. The Motion is **GRANTED**.
2. The Meadville Tribune is permitted to intervene.
3. The Crawford County Prothonotary is **HEREBY ORDERED** to immediately unseal the
above-captioned docket and make all filings and the parties' names available for public
view.

Judge Francis Schultz

VERIFICATION

I, Keith Gushard, reporter for the Meadville Tribune, hereby state that the facts above set forth in the Motion to Intervene and Unseal are true and correct to the best of my knowledge, information and belief and I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. §4904 (relating to unsworn falsification to authorities).

Keith Gushard

(signature)

Date: September 26, 2023

NOTICE

You are hereby notified that the attached motion will be presented by me on Sept. 27, 2023
20_____.

to the Prothonotary as an uncontested matter;
 in Motions Court at 8:45 a.m.

CERTIFICATION OF NOTICE AND SERVICE

The undersigned represents that three (3) business days' prior notice and a copy of this motion and proposed order have been served by first class mail, fax, or hand delivery on the _____ day of _____, 20____ upon all parties or their counsel of record in accordance with Pa.R.C.P. No. 440. N/A

INFORMATION FOR COURT ADMINISTRATOR

- A. Is this an original filing in this case? _____ Yes No
- B. Has any judge heard this matter previously? Yes _____ No
- C. If yes, name of judge who presided over previous matter:
 _____ Vardaro _____ Spataro _____ Stevens Other/Name
- D. Estimated court time required if this matter is granted:
 60 Minutes _____ Hours _____ Days Schultz
- E. Is this motion opposed by another party?
 _____ Yes _____ No Unknown

UNCONTESTED MOTION CERTIFICATION

The undersigned represents that (check all that apply):

- _____ 1. All parties or counsel have consented.
- _____ 2. Consents of all parties or counsel are attached.
- _____ 3. The Order seeks only a return hearing or argument date and no other relief.
- _____ 4. The Order seeks only the appointment of a master or hearing officer and no other relief.

Opposing Party or Counsel: UNKNOWN

(if opposing party is unrepresented, list his/her current address and telephone):

Address: _____

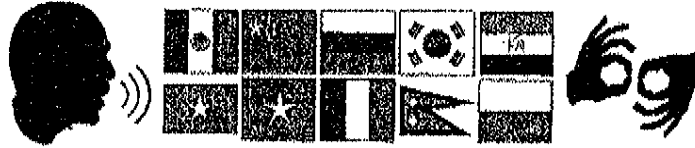
Telephone: () _____

I HEREBY CERTIFY ALL OF THE ABOVE STATEMENTS ARE TRUE AND CORRECT.

By: Paula K Burr

Telephone: 717 951-6314

Attorney For: Meadville Tribune



Language Access Coordinator, Crawford County Court of Common Pleas
Crawford County Judicial Center, 359 E. Center St., Ste. 4050
Meadville, PA 16335 ph. (814) 333-7498 fax (814) 333-7489
CourtAdministration@co.crawford.pa.us

ish: You have the right to an interpreter at no cost to you. To request an interpreter, please inform court staff using the contact information provided at the top of this notice.

ish/Español: Usted tiene derecho a un intérprete libre de costo. Para solicitar un intérprete favor de informárselo al personal judicial utilizando la información provista en la parte superior de este aviso.

ish/Cantonese Simplified Chinese/普通话/粤语简体中文: 您有权获得免费的口译员服务。若需要口译员，请使用通知上方提供的联系信息通知法院工作人员。

ish/Cantonese Traditional Chinese/普通話/廣東話繁體中文: 您有權要求免費傳譯服務。如欲要求傳譯服務，請參通知頂部的聯絡資料。通知法庭職員。

Arabic/العربية: يحق لك الحصول على مترجم دون دفع أي تكلفة من جانبك. اطلب مترجم، يرجى إعلام موظفي المحكمة باستخدام معلومات الاتصال المقدمة في الجزء العلوي من هذا الإشعار.

ian/Русский: У вас есть право на бесплатные услуги переводчика. Заявка на переводчика подается в суд по телефону или эл. почте, указанным выше в заголовке этого уведомления.

amese/Tiếng Việt: Quý vị có quyền được một thông dịch viên giúp mà không tốn chi phí nào cả, xin hãy báo cho nhân viên dùng thông tin liên lạc có ở trên đầu thông báo này.

hi/नेपाली: तपाईंको निःशुल्क रूपमा भाषा अनुवादक राख्न पाउने अधिकार छ। अनुवादकको लागि अनुरोध गर्न, यस सूचनाको दिइएको सम्पर्क जानकारी भरेर अदालतका कर्मचारीहरूलाई जानकारी दिनुहोस्।

an/한국어: 귀하는 비용에 대한 부담 없이 통역 서비스를 받을 권리가 있습니다. 통역 서비스를 요청하려면 본서의 상단에 기재된 연락처를 통해 법원 직원에게 알려주세요.

h/PolSKI: Ma Pan/Pani prawo do nieodpłatnego skorzystania z usług tłumacza ustnego. Aby zwrócić się o wsparcie ze strony toza ustnego, proszę skontaktować się z pracownikami sądu, korzystając z danych znajdujących się w górnej części jszego dokumentu.

Pakistan/پنجابی/Punjab: تہاڈے کول بغیر ادائیگی کیتیاں اک مترجم حاصل کرن دا حق اے۔ مترجم دی درخواست کرن لئی میریانی کر کے ایس نوٹس دے اوتے فراہم کیتیاں رابطے دیاں معلومات نوں ورتدیاں عدالت دے عملے نوں اطلاع دوو۔

abi/ਪੰਜਾਬੀ/India: ਤੁਹਾਨੂੰ ਇੱਕ ਦੁਭਾਸ਼ੀਆ ਹਾਸਲ ਕਰਨ ਦਾ ਹੱਕ ਹੈ, ਜਿਸ ਦੀ ਤੁਹਾਨੂੰ ਕੋਈ ਲਾਗਤ ਨਹੀਂ ਲੱਗੇਗੀ। ਦੁਭਾਸ਼ੀਏ ਲਈ ਬੇਨਤੀ ਕਰਨ 'ਤੇ, ਕਿਰਪਾ ਕਰ ਕੇ ਅਦਾਲਤ ਦੇ ਅਮਲੇ ਨੂੰ ਜਾਣੂ ਕਰਵਾਓ ਤੇ ਇਸ ਲਈ ਇਸ ਨੋਟਿਸ ਦੇ ਸਿਖਰ ਉੱਤੇ ਦਿੱਤੀ ਸੰਪਰਕ ਜਾਣਕਾਰੀ ਦਾ ਇਸਤੇਮਾਲ ਕਰੋ।

agnese/Português: Você tem direito a um intérprete gratuitamente. Para solicitar um intérprete, informe à nossa equipe os dados de contato mostrados na parte superior deste aviso.

ali/Somaali: Waxaad xaq u leedahay in lagu turjumo lacag la'aan ah. Si aad u codsato turjumaanka, fadlan u sheeg amaadda shaqaalaha adiga oo isticmaala macluumaadka ciwaanka kor lagu siiyay ee ogeysiiskaan.

an Creole/Kreyòl Ayisyen: Ou gen dwa resevwa sèvis yon entèprèt gratis. Pou mande pou yon entèprèt, tanpri fè manmètèl tribinal la konnen lè ou sèvi avèk enfòmasyon an yo te bay ou nan tèt avi sa a.


ch/Français: Vous avez le droit de bénéficier gratuitement de l'assistance d'un interprète. Pour en faire la demande, veuillez former le personnel du tribunal à l'aide des coordonnées indiquées en haut de page.

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by:

9/27/23

Signature: 

Name: Paula Knudsen Burke
PA Attorney ID: 87607