

IN THE COUNTY COURT OF THE
FOURTH JUDICIAL CIRCUIT IN AND
FOR DUVAL COUNTY, FLORIDA

CASE NO.: 16-2023-CC-002164
DIVISION: CC-F

CASE CONFIDENTIAL,
Plaintiff,

vs.

CASE CONFIDENTIAL,
Defendant.

FILED

MAR 28 2024

DUVAL CLERK OF COURT

**CONSENT ORDER DETERMINING CONFIDENTIALITY OF COURT RECORDS
AND SEALING COURT RECORDS FROM PUBLIC EXAMINATION**

THIS MATTER came to the Court's attention on the Defendants' Joint Motion to Determine Confidentiality of Court Records and Seal Court Records from Public Examination ("the Joint Motion"). Plaintiff joined Defendants in the Joint Motion. The Court, having reviewed the Joint Motion and being otherwise fully advised in the premises, **FINDS AS FOLLOWS:**

1. On February 8, 2023, Plaintiff filed an eviction lawsuit against Defendants seeking possession of said premises for alleged nonpayment of rent.
2. Plaintiff filed the instant suit in its capacity as the property manager for the owner of the subject property.
3. At the time of Plaintiff's filing, the property owner had already filed an action ("the First Case") for possession alleging non-payment for the same tenancy and such case was still open and active.
4. This Court transferred this cause to the First Case on February 23, 2023, at 12:14 pm.
5. On February 23, 2023, at 12:23 pm, Plaintiff also filed a Notice of Dismissal without prejudice.

6. The instant action is an action overlapping in time and facts with the First Case.
7. Defendants, joined by Plaintiff, filed their Joint Motion allegedly to avoid undue prejudice to Defendants from the existence of an eviction case filing, asserting that third parties, including consumer reporting agencies and landlords, misuse, abuse, and mishandle court records of eviction cases irrespective of outcomes.
8. Plaintiff agreed and consented to the contents of Defendants' Joint Motion to Determine Confidentiality of Court Records and Seal Court Records from Public.
9. In civil cases, Fla. R. Jud. Admin. 2.420(e)(1) sets forth a three part test for evaluating a motion to seal court records - the movant must: (1) identify the particular court records or a portion of a record that the movant seeks to have determined as confidential with as much specificity as possible without revealing the information subject to the confidentiality determination; (2) specify the bases for determining that such court records are confidential without revealing confidential information; and (3) set forth the specific legal authority and any applicable legal standards for determining such court records to be confidential without revealing confidential information.
10. In this action, the parties seek to make the parties' names and identities, all docketed filings in this action, and the entire " court record", including the progress docket and other electronic records of this action as maintained by the Clerk of Court that are publicly searchable via the Internet confidential.
11. In Barron v. Florida Freedom Newspapers, Inc., 531 So. 2d 113 , 118 (Fla. 1988) , the Florida Supreme Court gave guidance to trial courts in evaluating the bases for closing or making confidential a civil proceeding.- The factors in Barron were later adopted with a slight expansion in Rule 2.420(c)(9), Florida Rules of Judicial Administration.

12. Rule 2.420(c)(9), the Florida Rules of Judicial Administration provide a court the power to determine the confidentiality of any court record by court order in individual cases, so long as confidentiality is required to accomplish one of seven possible interests, the order is not overbroad as it relates to protecting those interests, and no less restrictive means are available to protect to those interests.
13. In considering those factors, the Court finds that confidentiality is required to prevent a serious and imminent threat to the fair, impartial, and orderly administration of justice, as misuse of court records creates public distrust in the court system and results in arbitrary or capricious actions when parties fail to utilize complete or accurate information derived from court records. See Fla. R. Jud. Admin. 2.420(c)(9)(A)(i); see also Lauren Kirchner and Matthew Goldstein, How Automated Background Checks Freeze Out Renters, New York Times (May 28, 2020), <https://www.nytimes.com/2020/05/28/business/renters-background-checks.html>. Defendants are at substantial risk of such arbitrary and capricious denial of future rental applications from the court records in this action. Specifically, Defendants allege they have already had rental applications to future homes denied due to the mere filing of this action. Therefore, even with a dismissal the potential for great harm exists.
14. The Court also finds that there are substantial risks to tenants, including Defendants from the misuse of court records in eviction cases, deprived of their full context, by third-party tenant screening companies. Specifically, many tenant-screening companies use algorithms that scrape identifying data from electronic court records and pass those reports to participating landlords or lenders without verifying the disposition of cases or reviewing the actual allegations or factual determinations therein. See Colin Lecher, Automated

Background Checks are Deciding Who's Fit for a Home, The Verge (Feb. 1, 2019, 8:00 A.M.), <https://www.theverge.com/2019/2/1/18205174/automation-background-check-criminal-records-corelogic>.

15. In this action, the transfer of the case and Plaintiff's dismissal of the case fully and completely resolve Plaintiff's complaint and Defendants' responses and defenses.
16. There are no third parties who have an interest in the outcome of this action, which is for possession of a residential rental dwelling. There is no prejudice or harm that will occur to any third party if the court records in this action are made confidential.
17. The Court finds that changing the names of the parties and identity in the caption and progress docket of the action as maintained by the Clerk of Court would be the least restrictive means to accomplish the goals of confidentiality set forth above. See Fla. R. Jud. Admin. 2.420(e)(3) ("Any order granting in whole or in part a motion ... must state with as much specificity as possible without revealing the confidential information: ... (C) whether any party's name determined to be confidential and, if so, the particular pseudonym or other term to be substituted for the party's name.>").
18. The Court further finds that the more restrictive seal of the entire "court record," as contemplated in Amended Administrative Order 2006-05, from physical or online search is the best and most appropriate means to accomplish the goals of confidentiality as set forth above.
19. Notwithstanding the general confidentiality and seal of this action, the parties' attorneys, in addition to persons directly employed by Plaintiff and Defendants in their individual capacity, should be permitted to view the confidential information. See Fla. R. Jud. Admin. 2.420(e)(3)(F).

It is therefore,

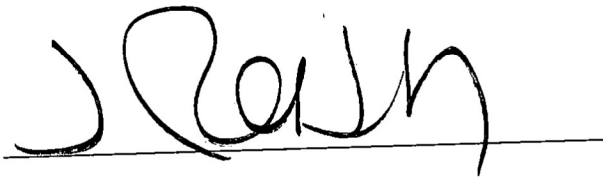
ORDERED:

1. The Clerk of Court is directed to make the court record of this action confidential and seal it in compliance with Fourth Judicial Circuit Amended Administrative Order No. 2006-05 and as prescribed below.
2. The Clerk of Court shall change both Plaintiff and Defendants' names in the Clerk's progress docket and all other viewable electronic records to make Plaintiff and Defendants' names confidential, replacing any first name with "Case" and last name with "Confidential."
3. The Clerk of Court shall not record any document in this action in the official records of Duval County, Florida, as no document in this action is subject to mandatory recording.
4. The Clerk of Court shall seal the entire "court record," including the progress docket and other similar records generated to document activity in a case, all pleadings, notices, and other documents filed in this case, and any other electronic records in this case. It is critical that the progress docket is not made available on any public information system.
5. Any materials sealed pursuant to this Order shall be conditionally disclosed upon the Court's entry of any subsequent order finding that such opening is necessary for the purposes of judicial or governmental accountability or First Amendment rights.
6. Any materials sealed pursuant to this Order may otherwise be disclosed only to (a) any judge of this Circuit for case-related reasons, (b) the Chief Judge, Administrative Judge, or their designee, (c) to Plaintiff and Defendant, their lawful agents, or their attorneys of record, or (d) by further order of the Court.
7. The Clerk of Court shall post a copy of this Order on the Clerk's website and in a

“prominent public location” in the Duval County Court house within 10 days of the rendition of this Order, and the posted copy shall remain there for at least 30 days from the date it is first posted. After the 30th day from the date this Order is posted and unless further ordered by the Court, the Clerk of Court shall remove the posted copy of this Order.

DONE AND ORDERED in Chambers, at Duval County, Florida, this 27 day of

March, 2024.



COUNTY COURT JUDGE

COPIES FURNISHED TO:

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