

**IN THE CIRCUIT COURT, SEVENTH JUDICIAL CIRCUIT
IN AND FOR VOLUSIA, FLAGLER, ST. JOHNS AND PUTNAM COUNTIES**

RE: CONFIDENTIALITY OF COURT RECORDS

REF: W-2011-104

WHEREAS, the Florida Supreme Court adopted amendments to Rule 2.420, Florida Rules of Judicial Administration, effective October 1, 2010 {*In re: Amendments to Florida Rule of Judicial Administration 2.420 and the Florida Rules of Appellate Procedure*, 31 So.3d 756 (Fla. 2010)}. These amendments require persons filing documents as court records and the Clerks of the Circuit Court to identify certain records as confidential, modify the procedures for maintaining court records as confidential, establish procedures for criminal cases, and address confidential appellate court records, and

WHEREAS, the Clerks of the Circuit Court in the Seventh Judicial Circuit conferred and offered helpful suggestions to the Court in regard to this Order. The Clerks recommend that certain records continue to be automatically treated as confidential by the Clerks because it is not reasonably practical to do otherwise. The Court finds it will be a more efficient use of available resources to treat as confidential certain records that are regularly filed with the Court when those records are made confidential by federal or state law;

NOW THEREFORE, I, J. DAVID WALSH, Chief Judge of the Seventh Judicial Circuit of Florida, hereby order as follows:

I. Filer of Court Records

A. Notice of Confidential Information Within Court Filing

A person filing a document as a court record must, in accordance with Rule of Judicial Administration 2.420(d)(2), file a "Notice of Confidential Information Within Court Filing" if the document contains information specified as confidential in accordance with Rule 2.420(d)(1)(B). The 19 items in this rule, which require a filer to file a "Notice of Confidential Information Within Court Filing," are listed in Appendix A. The "Notice of Confidential Information Within Court Filing" is attached as Appendix B. If the document is filed in one of the following types of cases, which are maintained by the Clerks of the Circuit Court as confidential, the Notice is not required:

1. Dependency, sections 39.0132(3)-(4), Florida Statutes.
2. Termination of Parental Rights, sections 39.814(3)-(4), Florida Statutes.
3. Adoption, section 63.162(2), Florida Statutes.
4. Surrogacy, section 742.16(9), Florida Statutes.
5. Children and Families in Need of Services, sections 984.06(3)-(4), Florida Statutes.
6. Delinquency, section 985.05(2), Florida Statutes.
7. Waiver of Parental Notification of Termination of Pregnancy, sections 390.01114 -.01116 and Florida Juvenile Procedure Rule 8.835.

If a document from one of these case types listed in 1-7 is filed in any other case, the Notice must be filed with the document.

B. Motion to Determine Confidentiality of Court Records Not Subject to Notice of Confidential Information within Court Filing

The filer of a document must, in accordance with Rule of Judicial Administration 2.420(d)(3), ascertain whether any information contained within the document may be confidential, not including the 19 items listed in Rule 2.420(d)(1)(B). If the document includes confidential information that is not one of the 19 items, the filer must file a "Motion to Determine Confidentiality of Court Records" unless (1) the person filing the information is the only individual whose confidential information is included in the document or is the attorney representing all such individuals, and (2) a knowing waiver of confidentiality is intended.

The filer of the motion must indicate in the motion whether the motion is agreed to and must provide service on other parties and any affected non-parties. Non-parties must also be provided with a Notice that describes the confidential information with as much specificity as possible without revealing the confidential information. A form "Motion to Determine Confidentiality of Court Records" is attached in Appendix C. A form "Notice to Affected Non-Party" is attached in Appendix D.

If the motion is not agreed to, the filer must contact the judicial assistant for the division judge upon filing of the motion and set the matter so that a hearing can be held within 30 days of filing. A form "Notice of Hearing (Sealed records)" is attached as Appendix E which the movant must complete and serve. A proposed "Order Granting/Denying Motion to Determine Confidentiality of Court Records" is attached as Appendix F-1 and F-2.

An affected non-party may also file a motion requesting that a file, document, or information in a court file be maintained as confidential. The form "Motion to Determine Confidentiality of Court Records" in Appendix C may be used for this purpose. The affected non-party must follow the same procedure as the filer to serve the motion and set the matter for hearing described above.

C. Motion to Determine Confidentiality of Court Records – Special Criminal Records

A filer, who seeks to determine the confidentiality of a plea agreement, substantial assistance agreement, or other court record that reveals the identity of a confidential informant or active criminal investigative information, should use a "Motion to Determine Confidentiality of Court Records – Special Criminal Records," which is attached as Appendix G.

If the motion is not agreed to, the filer must contact the judicial assistant for the division judge upon filing of the motion and set the matter so that a hearing can be held within 15 days of filing. A proposed "Order Granting/Denying Motion to Determine Confidentiality of Court Records - Special Criminal Records" is attached as Appendix H.

D. Motions to Determine Confidentiality of Court Records in Appellate Courts

When a filer has obtained an Order granting a Motion to Determine Confidentiality of Court Records from an appellate court, including orders entered by the circuit appellate court, the filer must file a copy of the motion and order with the Clerk in the lower tribunal.

II. Clerks of the Circuit Court

A. Confidential cases

1. Unless otherwise ordered by the Court, the Clerks of the Circuit Court are authorized and directed to maintain as confidential the case file, progress docket, case style, and every record filed in the following types of cases:

- a. Dependency, sections 39.0132(3)-(4), Florida Statutes.
- b. Termination of Parental Rights, sections 39.814(3)-(4), Florida Statutes.
- c. Adoption, section 63.162(2), Florida Statutes.
- d. Surrogacy, section 742.16(9), Florida Statutes.
- e. Children and Families in Need of Services, sections 984.06(3)-(4), Florida Statutes.
- f. Delinquency, sections 985.04(1) and 985.045(2), Florida Statutes.
- g. Waiver of Parental Notification of Termination of Pregnancy, sections 390.01114 -.01116 and Florida Juvenile Procedure Rule 8.835.

No other order of court or public notice is required to maintain these case types as confidential.

2. Unless otherwise ordered by the Court, the Clerks of the Circuit Court are authorized and directed to maintain as confidential the case file and every record filed in the case for the following types of cases:

- a. Petitions Regarding Individuals Suspected of Being Infected With or Exposed to a Sexually Transmissible Disease (including petitions for writs of habeas corpus or immediate release), Chapter 384, Florida Statutes.
- b. Petitions Regarding Individuals Suspected of Having Tuberculosis (including petitions for immediate release), Chapter 392, Florida Statutes.
- c. Marchman Act (including petitions for writs of habeas corpus filed by individuals held under the act), section 397.501(7), Florida Statutes.
- d. Sexual Violence Injunctions, sections 92.56, 119.071(2)(h)(2) and (j)(1), and 784.046, Florida Statutes.
- e. Baker Act (including petitions for writs of habeas corpus filed by individuals held under the act), section 394.4615(1), Florida Statutes.
- f. Involuntary Commitments of Sexually Violent Predators, (including petitions for writs of habeas corpus filed by individuals held under the act), section 394.4615, Florida Statutes.
- g. Incapacity Cases, section 744.1076, Florida Statutes, and Rule 5.550, Florida Probate Rules.

In these case types, the Court finds that the clinical and/or identifying information protected by statute is interwoven and an integral part of the court file and that it is administratively impractical for Clerks to maintain only portions of the court file as confidential. No other order of court or public notice is required to maintain these case types as confidential.

In the case types listed in subsections a. through d., the identity of the subject or petitioner is confidential pursuant to statute. Therefore, a generic case style shall be used for the public view of these case types. Further, if a member of the public or an entity requests court file information by party name, the Clerks of the Circuit Court are hereby authorized and directed to inform the requesting person or entity that confidentiality laws prohibit the Clerk from confirming or denying the existence of such file or providing the requested records, if any.

B. Confidential records and information

1. In accordance with Rule 2.420(d)(1), the Clerks of the Circuit Court are authorized and directed to maintain as confidential the records and information identified in Appendix A, unless otherwise ordered by the Court.

2. Unless otherwise ordered by the Court, the Clerks of the Circuit Court are authorized and directed to maintain the following records or information as confidential as provided by state or federal law:

- a. Domestic Violence Petitioner's Request for Confidential Filing of Address, sections 119.071(2)(j)(1) and 741.30, Florida Statutes, and Florida Family Law Form 12.980(h).
- b. Inventory of Personal Representative and Accountings, section 733.604(1), Florida Statutes; and Inventories of Safe Deposit Boxes, Florida Probate Rules, 5.342.
- c. Guardianship Reports and orders appointing court monitors, section 744.3701(1), Florida Statutes.
- d. Birth Records, section 382.025, Florida Statutes.
- e. Cause of death within Death Records, section 382.008, Florida Statutes.
- f. Clinical Records of Detained Criminal Defendants Found Incompetent to Proceed or Acquitted by Reason of Insanity, section 916.107(8), Florida Statutes.
- g. Presentence Reports, Florida Rule of Criminal Procedure 3.712.
- h. Notice of Social Security Number, Florida Family Law Form 12.902(j).
- i. Florida Department of Law Enforcement criminal history records, Section 943.054, Florida Statutes and 28 C.F.R. Part 20.
- j. Department of Highway Safety and Motor Vehicles driver history records, section 119.0712(2), Florida Statutes and the Driver's Privacy Protection Act (DPPA), 18 U.S.C. § 2721 et seq.
- k. Records made confidential by Rule of Judicial Administration 2.420(c)1 – 6.
- l. A social security number contained in an indictment, information, arrest report or affidavit filed by the State Attorney or a law enforcement agency, beginning January 1, 2012. Section 119.0714(2)(a), Florida Statutes.
- m. Information identifying victims of child abuse or of sexual offenses, including child sexual abuse, sections 119.071(2)(h) and 119.0714(1)(h), Florida Statutes.

No other order of court or public notice is required to maintain these documents as confidential.

C. Other confidential records

1. Paternity - If the Clerks of the Circuit Court receive written notice, accompanied by a copy of a marriage license, that the biological mother in a paternity action has subsequently married the purported father, the Clerk is hereby authorized and directed to maintain as confidential the court file and the progress docket in the paternity action in accordance with section 742.091, Florida Statutes. No order of court or public notice is required before these records may be treated as confidential.

2. Criminal Investigative Records - The Clerks of the Circuit Court are authorized and directed to maintain as confidential the following criminal investigative documents, which may be in the possession of the Clerk. No order of court or public notice shall be required before these records are treated as confidential.

- a. Grand jury notes, stenographers' records, and transcripts, section 905.17, Florida Statutes.
- b. Unexecuted search warrants or search warrants and their returns that are part of an ongoing criminal investigation, section 119.071(2)(c)(1), Florida Statutes, Rule of Judicial Administration 2.420(c)(6).
- c. Records and warrants pertaining to indictments or informations until the defendant is in custody or a period of one year has elapsed, Florida Rule of Criminal Procedure 3.140(l).
- d. Applications for or orders authorizing a wiretap, pen register or trap and trace device, or mobile tracking device, sections 119.071(2)(c)(1), 934.09(8)(c), 934.33, and 934.42, Florida Statutes.
- e. Arrest warrants and supporting affidavits that are unexecuted or a determination is made that execution cannot be made, Rule of Judicial Administration 2.420(c)(6).

3. If the Clerks of the Circuit Court are unable to determine whether a record is confidential in accordance with Rule 2.420(c) 1 – 6, the Clerk may bring the record to the division judge for an initial determination of whether the Clerk is to maintain the record as confidential.

4. If the Clerks of the Circuit Court receive a request for public access to court records governed by sections II A, II B, or II C, the Clerk shall not release the requested information absent an order from the Court.

III. Procedure to Vacate an Order Granting a Motion to Determine Confidentiality of Court Records or Seeking to Access Information Designated Confidential by the Clerk

A. Responsibilities of Moving Party

When a party, affected non-party, member of the press, or the public seeks access to a particular confidential court file, document, information, or to the court's docket in an individual case, a motion must be filed with the Clerk of the Circuit Court. A copy of the motion must be provided to the judge who entered the order determining confidentiality of a file, document, information, or removing a party's name from the progress docket. If the file, document or information is being maintained as confidential based upon a "Notice of Confidential Information Within Court Filing," filed with the Clerk in accordance with this Administrative Order, or if the judge who entered the order is no longer a judge of the Seventh Judicial Circuit, then a copy of the motion should be provided to the division judge.

The moving party must also serve all parties and affected non-parties as provided in Rule 2.420(d)(4) with a copy of the motion. Non-parties must also be provided with a Notice describing but not revealing the confidential information sought to be accessed and a statement that if the motion is granted, the information will no longer be treated as confidential by the Court and the Clerk. A form "Notice to Affected Non-Party" is attached in Appendix D. If the movant is unable to ascertain the name and address at which to provide notice to the parties, the motion shall reference this Administrative Order and state in prominent or boldface type in the caption, "Confidential Party—Court Service Requested."

B. Responsibilities of Judicial Assistant

If a motion is filed with the "Confidential Party—Court Service Requested" designation properly displayed, the judicial assistant is responsible for providing such notice. The judicial assistant shall provide such notice so as not to inadvertently reveal the identity of the parties to the moving party.

C. Hearings

Except when a motion contesting a confidentiality order represents that all parties agree to the relief requested, the court must conduct a hearing before ruling on the motion. Said hearing must be conducted within 30 days of the motion being filed. It is the responsibility of the moving party to contact the judicial assistant to schedule the hearing. A form "Notice of Hearing (Confidential records)" is included in Appendix E. Further, even if all parties agree to the relief requested, the court may in its discretion hold a hearing on the motion. Any hearing on such a motion 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 Rule 2.420(c)(9)(A).

The moving party is responsible for ensuring that a complete record of the hearing is created, either by use of a court reporter or by any recording device provided as a matter of right by the Court.

IV. Procedure for Non-Parties to Request Confidentiality of Court Records

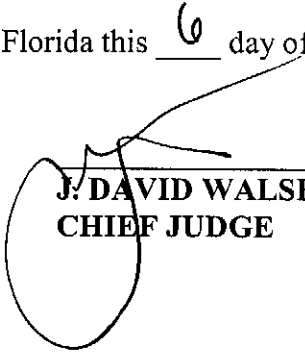
An affected non-party or other interested person may file a motion requesting that a file, document, or information in a court file be maintained as confidential. A form "Motion to Determine Confidentiality of Court Records" in Appendix C may be used for this purpose. The affected non-party must indicate in the motion whether the motion is agreed to and must indicate service on other parties and any other affected non-parties.

If the motion is not agreed to, the affected non-party or other interested person must contact the judicial assistant for the division judge upon filing of the motion and set the matter so that a hearing can be held within 30 days of filing. A form "Notice of Hearing (Confidential records)" is included in Appendix E. A form "Order Granting/Denying Motion to Determine Confidentiality of Court Records" is attached as Appendix F-1 and F-2.

This Administrative Order does not apply to or affect the procedures in Chapter 943, Florida Statutes, for sealing or expunging criminal history records.

TO BE RECORDED in Flagler, Putnam, St. Johns & Volusia counties.

DONE AND ORDERED in Daytona Beach, Volusia County, Florida this 6 day of June 2011.



J. DAVID WALSH
CHIEF JUDGE

cc: Circuit & County Judges
Court Administration
Clerks of Court
State Attorney
Public Defender
Regional Counsel
County Bar Associations

APPENDIX A

Confidential records and information for which a Notice of Confidential Information within Court Filing is required.

See Rule 2.420(d)(1)(B), Florida Rules of Judicial Administration

- (i) Chapter 39 records relating to dependency matters, termination of parental rights, guardians ad litem, child abuse, neglect, and abandonment. §39.0132(3), Fla. Stat.
- (ii) Adoption records. §63.162, Fla. Stat.
- (iii) Social Security, bank account, charge, debit, and credit card numbers in court records. §119.0714(1)(i)–(j), (2)(a)–(e), Fla. Stat. (Unless redaction is requested pursuant to §119.0714(2), this information is exempt only as of January 1, 2012.)
- (iv) HIV test results and patient identity within those test results. §381.004(3)(e), Fla. Stat.
- (v) 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.
- (vi) Birth and death certificates, including court-issued delayed birth certificates and fetal death certificates. §§382.008(6), 382.025(1)(a), Fla. Stat.
- (vii) Identifying information in a petition by a minor for waiver of parental notice when seeking to terminate pregnancy. §390.01116, Fla. Stat.
- (viii) Identifying information in clinical mental health records under the Baker Act. §394.4615(7), Fla. Stat.
- (ix) 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.
- (x) Identifying information in clinical records of detained criminal defendants found incompetent to proceed or acquitted by reason of insanity. §916.107(8), Fla. Stat.
- (xi) Estate inventories and accountings. §733.604(1), Fla. Stat.
- (xii) The victim's address in a domestic violence action on petitioner's request. §741.30(3)(b), Fla. Stat.
- (xiii) Information identifying victims of sexual offenses, including child sexual abuse. §§119.071(2)(h), 119.0714(1)(h), Fla. Stat.
- (xiv) Gestational surrogacy records. §742.16(9), Fla. Stat.
- (xv) Guardianship reports and orders appointing court monitors in guardianship cases. §§744.1076, 744.3701, Fla. Stat.
- (xvi) Grand jury records. Ch. 905, Fla. Stat.
- (xvii) Information acquired by courts and law enforcement regarding family services for children. §984.06(3)–(4), Fla. Stat.
- (xviii) Juvenile delinquency records. §§985.04(1), 985.045(2), Fla. Stat.
- (xix) 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.

APPENDIX B

**IN THE CIRCUIT/COUNTY COURT OF THE SEVENTH JUDICIAL CIRCUIT
IN AND FOR FLAGLER, PUTNAM, ST. JOHNS AND VOLUSIA COUNTIES, FLORIDA**

Plaintiff(s),

v.

Case No. _____

Defendant(s).

Notice of Confidential Information Within Court Filing

Pursuant to Florida Rule of Judicial Administration 2.420(d)(2), the filer of a court record 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.**

Title/Type of Document(s): _____

Indicate the applicable confidentiality provision(s) below from Rule 2.420(d)(1)(B), by specifying the location within the document on the space provided: If more space is needed, specify the location here: _____

_____ Chapter 39 records relating to dependency matters, termination of parental rights, guardians ad litem, child abuse, neglect, and abandonment. §39.0132(3), Fla. Stat. (If the document is filed within a Chapter 39 case, this form is not required.)

_____ Adoption records. §63.162, Fla. Stat. (If the document is filed within a Chapter 63 adoption case, this form is not required.)

_____ Social Security, bank account, charge, debit, and credit card numbers in court records. §119.0714(1)(i)–(j), (2)(a)–(e), Fla. Stat. (Unless redaction is requested pursuant to §119.0714(2), this information is exempt only as of January 1, 2012.)

_____ HIV test results and patient identity within the HIV test results. §381.004(3)(e), Fla. Stat.

_____ 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.

_____ Birth and death certificates, including court-issued delayed birth certificates and fetal death certificates. §§382.008(6), 382.025(1)(a), Fla. Stat.

_____ Identifying information in petition by minor for waiver of parental notice when seeking to terminate pregnancy. §390.01116, Fla. Stat. (If the document is filed within a Ch. 390 waiver of parental notice case, this form is not required.)

_____ Identifying information in clinical mental health records under the Baker Act. §394.4615(7), Fla. Stat.

_____ 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.

_____ Identifying information in clinical records of detained criminal defendants found incompetent to proceed or acquitted by reason of insanity. §916.107(8), Fla. Stat.

_____ Estate inventories and accountings. §733.604(1), Fla. Stat.

_____ Victim's address in domestic violence action on petitioner's request. §741.30(3)(b), Fla. Stat.

_____ Information identifying victims of sexual offenses, including child sexual abuse. §§119.071(2)(h), 119.0714(1)(h), Fla. Stat.

_____ Gestational surrogacy records. § 742.16(9), Fla. Stat.

_____ Guardianship reports and orders appointing court monitors in guardianship cases. §§744.1076, 744.3701, Fla. Stat.

_____ Grand jury records. Ch. 905, Fla. Stat. (If the document is filed in a Ch. 905 grand jury proceeding, this form is not required.)

_____ Information acquired by courts and law enforcement regarding family services for children. §984.06(3)–(4), Fla. Stat. (If the document is filed in a Ch. 984 family services for children case, this form is not required.)

_____ Juvenile delinquency records. §§985.04(1), 985.045(2), Fla. Stat. (If the document is filed in a Ch. 985 juvenile delinquency case, this form is not required.)

_____ 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.

DATED: _____

[Signature] _____
Printed name _____
Address _____
Phone number _____
Fax number _____
Florida Bar No. _____

CERTIFICATE OF SERVICE

I certify that the original was filed with the Clerk of the Court and that a copy of this document was furnished by () U.S. mail () hand delivery or () facsimile to [include all parties and affected non-parties] _____

_____ on _____, 20____.

[Signature]

Note: The clerk of court shall review filings identified as containing confidential information to determine whether the information is facially subject to confidentiality under the identified provision. The clerk shall notify the filer in writing within 5 days if the clerk determines that the information is NOT subject to confidentiality, and the records shall not be held as confidential for more than 10 days, unless a motion is filed pursuant to subdivision (d)(3) of the Rule. Fla. R. Jud. Admin. 2.420(d)(2).

APPENDIX C

**IN THE CIRCUIT/COUNTY COURT OF THE SEVENTH JUDICIAL CIRCUIT
IN AND FOR FLAGLER, PUTNAM, ST. JOHNS AND VOLUSIA COUNTIES, FLORIDA**

Plaintiff(s),
v. Case No. _____

Defendant(s).
_____ /

Motion to Determine Confidentiality of Court Records

1. I am a Plaintiff/Petitioner, Defendant/Respondent, or Affected non-party in this case, or Interested Person.

2. I have given written notice of this 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 Court or the Clerk.

3. I respectfully request that the Court determine that the following court records or portion of a record are confidential and order the Clerk to treat the records as confidential in accordance with Rule of Judicial Administration 2.420(c)(7) - (c)(8); Rule of Judicial Administration 2.420(c)(9):

- _____ particular information within a document, specify document and type of information: _____
- _____ particular documents within the court file, specify: _____
- _____ the entire court file, but not the progress docket
- _____ the entire court file and the progress docket
- _____ the party's name on the progress docket.

[Identify records or portion of a record that you seek to have determined confidential but do not reveal the information to be determined confidential]

4. The Court should determine the record is confidential for the following reasons:

[Explain why the court should find the record confidential. Do not reveal the information to be determined confidential. If you are an affected non-party or interested person, give your relationship to the parties and how you are affected by the record.]

5. [For rule 2.420(c)(7) or (c)(8) motions] The legal authority for the Court to determine that the records are confidential is: _____.
[Provide a court rule, statute, or case law authorizing the Court to determine this type of record is confidential].

6. [For rule 2.420(c)(9) motions] Confidentiality of the information sought to be kept confidential is required to protect the following interests: [select all that apply]

- _____ a. Prevent serious and imminent threat to the fair, impartial, and orderly administration of justice
- _____ b. Protect trade secrets
- _____ c. Protect a compelling governmental interest
- _____ d. Obtain evidence to determine legal issues in a case
- _____ e. Avoid substantial injury to innocent third parties
- _____ f. Avoid substantial injury to a party by 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 for in the Florida or U.S. Constitution or statutes or Florida rules or case law, specifically: _____

7. There is no less restrictive measure available to protect these interests and the degree, duration, and manner of confidentiality sought is no broader than necessary to protect these interests.

8. I have consulted with _____
[List all parties and affected non-parties, if any] and they agree do not agree with this motion.

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

10. I acknowledge that I may be subject to Court sanctions if this motion is not made in good faith and is not supported by a sound legal or factual basis.

DATED: _____ [Signature] _____
Printed name _____
Address _____
Phone number _____
Fax number _____
Florida Bar No. _____

CERTIFICATE OF SERVICE

I certify that the original was filed with the Clerk of the Court and that a copy of this document was furnished by () U.S. mail () hand delivery or () facsimile to [include all parties and affected non-parties] _____ on _____, 20____.

[Signature]

APPENDIX D

**IN THE CIRCUIT/COUNTY COURT OF THE SEVENTH JUDICIAL CIRCUIT
IN AND FOR FLAGLER, PUTNAM, ST. JOHNS AND VOLUSIA COUNTIES, FLORIDA**

Plaintiff(s),
v. Case No. _____

Defendant(s).
_____ /

Notice to Affected Non-Party

YOU ARE HEREBY NOTIFIED that the attached Notice of Confidential Information Within Court Filing Motion to Determine Confidentiality of Court Records Motion to Vacate or Open Court Records has been filed with the Court in this case.

The Notice of Confidential Information will result in the information being treated as confidential unless otherwise ordered by the Court.

The Motion seeks to determine as confidential / open to the public the following type of information: _____

_____ [describe the confidential information with as much specificity as possible without revealing the confidential information, including specifying the precise location of the information within the court record].

If the Motion to Determine Confidentiality of Court Records is denied these records will not be treated as confidential by the Clerk and the Court.

If the Motion to Open Court Records to the public is granted these records will no longer be treated by the Clerk and the Court as confidential.

You may file a response with the Clerk of the Circuit Court indicating if you agree or disagree with the motion. You are not required to file a response.

DATED: _____ [Signature] _____
Printed name _____
Address _____
Phone number _____
Fax number _____
Florida Bar No. _____

CERTIFICATE OF SERVICE

I certify that the original was filed with the Clerk of the Court and that a copy of this document was furnished by () U.S. mail () hand delivery or () facsimile to [include all parties and affected non-parties] _____

_____ on _____, 20____.

[Signature]

APPENDIX E

Instructions for Notice of Hearing Form

When should this form be used?

If you have filed a Motion that you want to be heard by a judge, you need to set a hearing before the **judge** and send notice of the **hearing** to the other party or parties in your case and to any affected non-party.

What should I do first?

To set a hearing date and time, you have to make a good-faith effort to coordinate a mutually convenient date and time for you, the other parties in the case, and the judge. **You should first call the office of the assigned judge and obtain hearing dates and times from his/her assistant.** You should then call the attorney for the other party in your case to determine whether they are available on any of the dates and times given to you by the judge's assistant. The final step is to call the judge's office back to confirm the agreed upon date and time.

Preparing the Notice of Hearing:

After the date and time have been confirmed, you should complete the **Notice of Hearing** form, sign it, make copies of it, and mail a copy to the other party and any affected non-party.

This form should be typed or printed in black ink. After completing this form, you should **file** the original with the **clerk of the circuit court** in the county where your case was filed. Make copies first to send to the other party and to keep for your records.

What should I do next?

A copy of this form **must** be mailed **or** hand delivered to the other party and any affected non-party in your case.

APPENDIX E

**IN THE CIRCUIT/COUNTY COURT OF THE SEVENTH JUDICIAL CIRCUIT
IN AND FOR FLAGLER, PUTNAM, ST. JOHNS AND VOLUSIA COUNTIES, FLORIDA**

Plaintiff(s),
v. Case No. _____

Defendant(s).
_____ /

Notice of Hearing [fill in all blanks]

TO: {name of other party} _____

There will be a hearing before Judge {name} _____, on
{date} _____, at {time} _____ m., in Room _____ of the Courthouse, located at:
{address} _____ on the following issues:

- Motion to Determine Confidentiality of Court Records
- Motion to Determine Confidentiality of Court Records – Special criminal records
- Motion to Vacate or Open Court Records to the Public
- Other: _____.

CERTIFICATE OF SERVICE

I certify that the original was filed with the Clerk of the Court and that a copy of this document was furnished by () U.S. mail () hand delivery or () facsimile to [include all parties and affected non-parties] _____

_____ on _____, 20____.

Signature of Person Requesting Hearing
Printed name _____
Address _____
Phone number _____
Fax number _____
Florida Bar No. _____



REQUESTS FOR ACCOMMODATIONS BY PERSONS WITH DISABILITIES If you are a person with a disability who needs an accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact Court Administration, 101 N. Alabama Ave., Ste. D-305, DeLand, FL 32724 (386) 257-6096, at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the appearance is less than 7 days; if you are hearing or voice impaired, call 711.

THESE ARE NOT COURT INFORMATION NUMBERS



SOLICITUD DE ADAPTACIONES PARA PERSONAS CON DISCAPACIDADES

Si usted es una persona con discapacidad que necesita una adaptación para poder participar en este procedimiento, usted tiene el derecho a que se le proporcione cierta asistencia, sin incurrir en gastos. Comuníquese con la Oficina de Administración Judicial (Court Administration), 101 N. Alabama Ave., Ste. D-305, DeLand, FL 32724 (386) 257-6096, con no menos de 7 días de antelación de su cita de comparecencia ante el juez, o de inmediato al recibir esta notificación si la cita de comparecencia está dentro de un plazo menos de 7 días; si usted tiene una discapacidad del habla o del oído, llame al 711.

ESTOS NUMEROS TELEFONICOS NO SON PARA OBTENER INFORMACION JUDICIAL

APPENDIX F-1

**IN THE CIRCUIT/COUNTY COURT OF THE SEVENTH JUDICIAL CIRCUIT
IN AND FOR FLAGLER, PUTNAM, ST. JOHNS AND VOLUSIA COUNTIES, FLORIDA**

Plaintiff(s),
v. Case No. _____

Defendant(s).
_____ /

**ORDER GRANTING/DENYING MOTION TO DETERMINE
CONFIDENTIALITY OF COURT RECORDS
IN ACCORDANCE WITH RULE OF JUDICIAL ADMINISTRATION 2.420(c)(7)-(c)(8)**

THIS MATTER is before the Court on a Motion to Determine Confidentiality of Court Records filed by _____ pursuant to Florida Rule of Judicial Administration 2.420(c)(7)-(c)(8) for an order determining the confidentiality of the following information relative to this case:

[select all that apply]

- _____ particular information within a document, specifically:

- _____ particular documents within the court file, specifically:

- _____ the entire court file, but not the progress docket
- _____ the entire court file and the progress docket
- _____ the party's name on the progress docket.

Affected non-parties were notified of this Motion.

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 records at issue are made confidential under state or federal law or any other basis under Rule of Judicial Administration 2.420(c)(7) – (c)(8).

-- OR --

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

1. The Court finds that the information is made confidential under state or federal law or other basis under Rule of Judicial Administration 2.420(c)(7) – (c)(8): [specify statute, rule, constitution, or case] _____.

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 treat as confidential immediately the following materials related to this matter and to keep such materials from public access: [*select all that apply*]

____ 1. The following information contained within _____ [specify pleading]:
_____ [specify information].

____ 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.

____ 5. 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 _____ (list documents) 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.

It is further **ORDERED** that any materials treated as confidential 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 authorized government agencies;
4. to the following specific individuals: _____; or
5. by further order of the Court.

It is further **ORDERED** that the Clerk is not to post this Order because the information is confidential based on federal or state law, and pursuant to Florida Rule of Judicial Administration 2.420(e)(4).

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

Copies to:

APPENDIX F - 2
IN THE CIRCUIT/COUNTY COURT OF THE SEVENTH JUDICIAL CIRCUIT
IN AND FOR FLAGLER, PUTNAM, ST. JOHNS AND VOLUSIA COUNTIES, FLORIDA

Plaintiff(s),
v. Case No. _____

Defendant(s).
_____ /

ORDER GRANTING/DENYING MOTION TO DETERMINE
CONFIDENTIALITY OF COURT RECORDS
IN ACCORDANCE WITH RULE OF JUDICIAL ADMINISTRATION 2.420(c)(9)

THIS MATTER is before the Court on a Motion to Determine Confidentiality of Court Records filed by _____ pursuant to Florida Rule of Judicial Administration 2.420(c)(9) for an order determining the confidentiality of the following information relative to this case: [*select all that apply*]

- _____ particular information within a document, specifically:

- _____ particular documents within the court file, specifically:

- _____ the entire court file, but not the progress docket
- _____ the entire court file and the progress docket
- _____ the party's name on the progress docket.

Affected non-parties were notified of this Motion.

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)(9).

-- OR --

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 in accordance with Rule of Judicial Administration 2.420(c)(9) 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 U.S. 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 treat as confidential immediately the following materials related to this matter and to keep such materials from public access: *[select all that apply]*

- 1. The following information contained within _____ [specify pleading]:
_____ [specify information].
- 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.

____ 5. 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 _____ (list documents) 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.

It is further **ORDERED** that any materials determined to be confidential 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 an authorized government agency;
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 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 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

Copies to:

APPENDIX G

**IN THE CIRCUIT/COUNTY COURT OF THE SEVENTH JUDICIAL CIRCUIT
IN AND FOR FLAGLER, PUTNAM, ST. JOHNS AND VOLUSIA COUNTIES, FLORIDA**

Plaintiff(s),
v. Case No. _____

Defendant(s).
_____ /

DIRECTIONS TO CLERK:

This Motion should be docketed using only the word "Motion."

Motion to Determine Confidentiality of Court Records
- Special Criminal Records

[This form to be used only to determine confidentiality of plea agreements, substantial assistance agreements, or other court record that reveals the identity of a confidential informant or active criminal investigative information]

1. This motion is filed by or on behalf of State of Florida, Defendant.
2. I respectfully request that the Court determine that this Motion and the following court records are confidential and order the Clerk to treat as confidential the records in accordance with Rule of Judicial Administration 2.420(c)(9):
 - _____ plea agreement
 - _____ substantial assistance agreement
 - _____ documents that reveal the identity of a confidential informant
 - _____ documents that reveal active criminal investigative information

3. The Court should determine the record is confidential for the following reasons:

[Explain why the court should find the record confidential. Do not reveal the information to be determined confidential.]

4. Confidentiality of the information is required to protect the following interests: [select all that apply]
 - _____ a. Prevent serious and imminent threat to the fair, impartial, and orderly administration of justice
 - _____ b. Protect a compelling governmental interest
 - _____ c. Avoid substantial injury to innocent third parties
 - _____ d. Complying with established public policy set forth in the Florida or U.S. Constitution or statutes or Florida rules or case law, specifically:

5. There is no less restrictive measure available to protect these interests and the degree, duration, and manner of confidentiality sought is no broader than necessary to protect the interests.

6. I have consulted with the Assistant State Attorney Attorney for Defendant Defendant and they agree do not agree with this motion.

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

8. I acknowledge that I may be subject to Court sanctions if this motion is not made in good faith and is not supported by a sound legal or factual basis.

DATED: _____ [Signature] _____
Printed name _____
Address _____
Phone number _____
Fax number _____
Florida Bar No. _____

CERTIFICATE OF SERVICE

I certify that the original was filed with the Clerk of the Court and that a copy of this document was furnished by () U.S. mail () hand delivery or () facsimile to _____, on _____, 20____.

[Signature]

APPENDIX H

**IN THE CIRCUIT/COUNTY COURT OF THE SEVENTH JUDICIAL CIRCUIT
IN AND FOR FLAGLER, PUTNAM, ST. JOHNS AND VOLUSIA COUNTIES, FLORIDA**

Plaintiff(s),
v. Case No. _____

Defendant(s).
_____ /

DIRECTIONS TO CLERK:

This Order should be docketed using only the word "Order."

**ORDER GRANTING/DENYING MOTION TO DETERMINE
CONFIDENTIALITY OF COURT RECORDS - SPECIAL CRIMINAL RECORDS
IN ACCORDANCE WITH RULE OF JUDICIAL ADMINISTRATION 2.420(c)(9)**

THIS MATTER is before the Court on a Motion to Determine Confidentiality of Court Records filed by _____ pursuant to Florida Rule of Judicial Administration 2.420(c)(9) in a criminal case for treating as confidential:

- _____ a plea agreement
- _____ a substantial assistance agreement
- _____ documents that reveal the identity of a confidential informant
- _____ documents that reveal active criminal investigative information

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

- OR -

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

1. Confidentiality is required in accordance with Rule of Judicial Administration 2.420(c)(9) to protect the following interests: [select all that apply]

- a. Prevent serious and imminent threat to the fair, impartial, and orderly administration of justice
- b. Protect a compelling governmental interest
- c. Avoid substantial injury to innocent third parties
- d. Complying with established public policy set forth in the Florida or U.S. 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 immediately treat as confidential the Motion, this Order, and the following materials related to this matter and to keep such materials from public access: [select all that apply]

- a plea agreement
- a substantial assistance agreement
- documents that reveal the identity of a confidential informant specifically: _____
- documents that reveal active criminal investigative information specifically: _____

The Motion and this Order and the confidential materials shall be docketed by generic title only. The materials are to remain confidential for ____ days (up to 120 days for original order and up to 60 days for extensions).

It is further **ORDERED** that any materials determined to be confidential 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 the following specific individuals: _____; or
- 4. by further order of the Court.

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