

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA**

ORLANDO DIVISION

JOHN DOE, a minor, by his parents
and next friends, SUSAN AND JACK
DOE,

Plaintiff,

Civ. Action No. 6:18-CV-102-RBD-GJK

v.

VOLUSIA COUNTY SCHOOL BOARD,

Defendant.

**UNOPPOSED EMERGENCY MOTION TO SEAL DEFENDANT'S RESPONSE IN
OPPOSITION TO PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION AND
SUPPORTING AFFIDAVITS**

Plaintiff John Doe (“John”), a minor, by and through his parents and next friends, Susan and Jack Doe, and pursuant to Local Rule 1.09, respectfully move this court to seal (a) the response filed on March 20, 2018 by the Defendant, The School Board of Volusia County, Florida (“the Defendant”) in opposition to John’s Motion for Preliminary Injunction (Dkt. 31) (the “Response”); and (b) the affidavits separately filed in support of the Response (Dkts. 32-36) (the “Affidavits”). Plaintiff John Doe is a fifteen-year-old transgender boy who is suing his school for discrimination through his parents as next friends. On January 30, 2018, the Court granted John’s motion to proceed anonymously in this case due to the highly sensitive and private nature of the facts involved, as well as the risk of stigma and retaliation he and his family face if his identity is made public (Dkt. 8). Although the Defendants were careful to redact John and his parent’s real names in its Response and Affidavits, the Defendant’s filings inadvertently left underacted certain other information, which could allow the John’s identify to be revealed

and which reveal private and sensitive information about conversations John had with his school counselor and his therapist. This information includes, without limitation, the identity of John's middle school and high school, the identity of John's school administrators and counselors, notes from a meeting between John, his parents, his private therapist and various school administrators, and notes maintained by John's school counselor summarizing discussions she had with John during their private sessions.

Minor litigants have a "special status and vulnerability" that entitles them to "heightened privacy protections." *Doe v. Stegall*, 653 F.2d 180, 186 (5th Cir. 1981); *D.L. ex rel. Phan L. v. Bateman*, No. 3:12-CV-208-J-32JBT, 2012 WL 1565419, at *2 (M.D. Fla. May 2, 2012). Here, because of John's particular vulnerability, and the heightened risk of retaliation he and his family face if his community learns that he is transgender, John has a heightened interest in retaining his anonymity, and the anonymity of his family, throughout these proceedings. The information contained within the Defendant's Response and Affidavits could be enough to identify John and his family to individuals, which could in turn expose them to stigma and retaliation by members of their community. The filings also contain sensitive personal information provided by John to his therapist and school counselor. Filing these documents under seal is therefore necessary to protect John's and his family's privacy interests.

In considering motions to seal, courts must balance the movant's interests in keeping information confidential against the public's interest in accessing court documents. *See, e.g., Romero v. Drummond Co., Inc.*, 480 F.3d 1234, 1246 (11th Cir. 2007); *Chicago Tribune Co. v. Bridgestone/Firestone, Inc.*, 263 F.3d 1304, 1314-15 (11th Cir. 2001). The public's common law right of access to judicial proceedings can be overcome by a showing of good cause, which courts evaluate by considering "whether allowing access would impair court functions or harm

legitimate privacy interests, the degree of and likelihood of injury if made public, the reliability of the information, whether there will be an opportunity to respond to the information, whether the information concerns public officials or public concerns, and the availability of a less onerous alternative to sealing the documents.” *Romero*, 480 F.3d at 1246; *see also Graphic Packaging Int’l, Inc. v. C.W. Zumbiel Co.*, No. 3:10-cv-891-TJC-JBT, 2010 WL 6790538, at *1 (M.D. Fla. Oct. 28, 2010).

The Eleventh Circuit has recognized that “[a] party’s privacy or proprietary interest in information sometimes overcomes the interest of the public in accessing the information.” *Romero*, 480 F.3d at 1246. Sealing the documents at issue here will not impair court functions, and as both parties have access to the unsealed versions of the documents at issue, the sealing of such documents will not impair either party’s ability to respond to the information contained therein. Moreover, the information contained in the documents that John seeks to seal is not related to “public officials or public concerns,” and there is no “less onerous” alternative to sealing these documents that would ensure that their confidential contents remain confidential. On the other hand, leaving the information at issue in the public domain harms John’s legitimate privacy interest and John and his family are likely to suffer significant injury if such information is disclosed.

John respectfully requests that the Defendant’s Response and Affidavits be maintained under seal for the duration of this matter, including any appeals, and be destroyed at the conclusion of this litigation. Good cause exists to maintain the privacy of these records until they are destroyed because the concerns and substantial invasion of privacy that would result to John and his family from disclosure would not end or abate at any particular point in time.

This motion has been designated as an “Emergency Motion” because the documents sought to be sealed were previously filed, and so long as the documents remain on the Court’s docket, a significant danger exists that the John’s identify will be exposed and that John and his family will suffer irreparable stigma and retaliation as a result.

CONCLUSION

For all of the reasons stated in this motion, John respectfully requests that the Court enter its Order directing the clerk to seal (a) the Defendant’s Response in Opposition to the Plaintiff’s Motion for Preliminary Injunction (Dkt. 31); (b) the five affidavits separately filed in support of the Response (Dkts. 31-36); and (c) granting to John such other and further relief as the Court deems proper.

Rule 3.01(g) Certification

Pursuant to Local Rule 3.01(g), the undersigned certifies that she conferred with counsel for Defendant in a good faith effort to resolve the issues in this motion, and said counsel consents to the relief requested herein.

Dated: March 23, 2018

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on March 23, 2018, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send an electronic notice to all counsel of record.

/s/ Lauren L. Valiente

Lauren L. Valiente
Attorney