

From: [William H. Buechner, Jr.](#)
To: [Thomas Mew](#); [Kari Butler](#)
Cc: [Ed Buckley](#); [Rachel Berlin Benjamin](#); [Andrew Beal](#); [Jack Hancock](#); [Michael M. Hill](#)
Subject: RE: [EXTERNAL] RE: [EXTERNAL] RE: Conference Request 1:16-cv-1460 (Bostock v. Clayton County)
Date: Thursday, January 13, 2022 8:04:10 AM

CAUTION - EXTERNAL:

Ms. Butler,

This email sets forth the County's position with respect to the matters presented in Plaintiff's email.

The documents at issue are from the private and personal diary of Judge Teske. This fact alone warrants the confidential designation for Judge Teske's diary. The Consent Protective Order contemplates maintaining the confidentiality of documents containing "sensitive, private, personal, and/or confidential information, including but not limited to personnel, medical and financial information, concerning Plaintiff and/or the County's current and former employees." (Doc. 85, at p. 1) (emphasis added). Contrary to Plaintiff's suggestion, the universe of confidential documents is not limited to medical, financial or family matters. Indeed, the County cannot envision documents more sensitive, private or personal than a personal diary. The County produced the relevant portions of Judge Teske's personal diary to Plaintiff because it includes discoverable information. However, this does not mean that the diary loses its inherently personal, sensitive or private nature. Nor does it mean that Plaintiff should be allowed to disseminate Judge Teske's private and personal diary to whomever Plaintiff pleases or that the diary should be placed on the docket for public viewing.

Plaintiff argues that Judge Teske's diary is the only document that the County has produced and designated as confidential. This assertion is misleading at best, as the Consent Protective Order already designates broad categories of documents produced by the County to Plaintiff as confidential. (Doc. 85, at pp. 1-2). Although Plaintiff cites cases for the general proposition that judicial records are presumed to be public documents, the Consent Protective Order itself and the Court's local rules concerning the filing of documents under seal recognize that there are numerous exceptions to this general rule.

When we asked Plaintiff's counsel why he wanted to remove the confidential designation from Judge Teske's personal diary, the only explanation Plaintiff's counsel offered was that it would be inconvenient to have to file the diary (or any brief or pleading discussing its contents) under seal. We explained to Plaintiff's counsel that this is a task that his administrative staff can handle. We are confident that Plaintiff's counsel have filed documents under seal on many occasions in the past and that doing so in this case would be no more than a very minor inconvenience – and one that we would bear equally. Simply put, maintaining the confidentiality of Judge Teske's diary would not prejudice Plaintiff's prosecution of this case in any way. Plaintiff may cite to it as he pleases in his filings and present to the Court whatever argument he wants to make with respect to Judge Teske's diary.

Given the absence of prejudice to Plaintiff if the confidentiality of Judge Teske's diary is maintained,

we are concerned that Plaintiff's counsel may have ulterior motives for seeking the removal of the confidential designation for Judge Teske's diary. As the Court is well aware, this case has generated substantial media interest, and even after the case was remanded to this Court from the Eleventh Circuit and the Supreme Court, there have been several media stories regarding proceedings in this case on remand. We are concerned that, if the confidentiality designation for Judge Teske's diary is removed, Plaintiff's counsel may distribute it to their media contacts in hopes of generating media stories about Judge Teske's personal diary and its contents. Such an outcome would unjustifiably trample on Judge Teske's privacy interests in his personal diary and also could impermissibly influence potential jurors if this case were to go to trial.

Finally, Plaintiff contends that the County in essence waived any confidentiality interests in the diary by not designating as confidential deposition transcripts discussing the diary. However, under this analysis, Plaintiff could simply file deposition transcripts and exhibits discussing or containing Judge Teske's diary excerpts on the public docket without any Court involvement. Plaintiff rightfully recognizes that this is not the case, which is why Plaintiff has sought this conference with the Court to challenge the County's designation of Judge Teske's personal diary as confidential. In any event, the Court may modify the Consent Protective Order (Doc. 85, at p. 5), and the Court should give the County additional time to designate as confidential portions of deposition transcripts that discuss the diary's contents. Regardless, this contention only relates to deposition transcripts and not the confidentiality of the diary itself.

Accordingly, the County requests that the Court deny Plaintiff's request to remove the County's designation of Judge Teske's personal diary as confidential.

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