

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

<b>GERALD LYNN BOSTOCK,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>CIVIL ACTION</b>
	)	<b>NO: 1:16-cv-01460-ELR-WEJ</b>
<b>CLAYTON COUNTY,</b>	)	
	)	
<b>Defendant.</b>	)	

**PLAINTIFF’S RESPONSE TO DEFENDANT’S EMERGENCY MOTION  
TO SEAL CERTAIN DEPOSITION TRANSCRIPTS AND  
PLEADINGS FILED BY PLAINTIFF IN SUPPORT OF HIS  
MOTION FOR SUMMARY JUDGMENT**

Contrary to the assertions in Defendant Clayton County’s Emergency Motion to Seal Certain Deposition Transcripts and Pleadings filed by Plaintiff in Support of His Motion for Summary Judgment (Doc. 146), Plaintiff has acted in full compliance with both the operative Court Order of January 13, 2022 on this issue (Doc. 112) and the Consent Protective Order in this case. (Doc. 85).

On January 13, 2022, the Court issued its order on the confidentiality of the diary (the “Order”). Although Plaintiff has filed objections to that Order, it remains the operative law in this case on this issue. The Order expressly states that “**The designation of the diary as confidential does not prevent a party from filing excerpts from it with the Court.**” (Doc. 112 at 2 (emphasis added)).

Plaintiff has acted in full compliance with this Order. Plaintiff moved to file the diary in its entirety under seal. (Doc. 128). The Court granted this motion. (Doc. 144). Any references to the diary in deposition transcripts or Plaintiff's Statement of Undisputed Facts are excerpts of the diary which the Court's Order expressly states may be filed with the Court.<sup>1</sup> Defendant raised no objections to the Order and to do so now is untimely.

Further, Plaintiff has acted in full compliance with the Consent Protective Order. The Consent Protective Order requires that any designation of deposition testimony as confidential must be made within 10 days of the receipt of the transcript. (Doc. 85 at 4). Defendant did not attempt to designate portions of Teske and Johnson's depositions (transcripts of which were received October 11, 2021 and November 30, 2021) until March 16 and March 17, well past the time for doing so under the Protective Order.

Defendant's assertion that the Court rejected this argument concerning timing of designations is simply wrong. The Court's Order does not expressly address the issue of timely designations but, by stating that the parties may file excerpts of the diary, clearly authorizes what Plaintiff has done. Plaintiff filed

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<sup>1</sup> The Protective Order also states that "noting in this order shall prevent a party from filing any documents designated as 'confidential' with the court." (Doc. 85 at 4).

under seal the diary the Court's Order determined to be confidential. Although objections to that Order are pending, Plaintiff, recognizing that the January 13, 2022 Order is the current order governing this issue, filed the diary under seal. Further, Plaintiff filed under seal the designations to deposition testimony that Defendant timely made under the express terms of the Consent Protective Order.

Now, Defendant seeks to overturn the express terms of the Order and of the Consent Protective Order. Defendant could have filed objections to the Order if it wished to, but it did not. And the Consent Protective Order was agreed to by both parties. More outlandishly, Defendant seeks an order sealing the entirety of Plaintiff's Statement of Material Facts and Memorandum in Support of his Motion for Summary Judgment, seeking to conceal evidence concerning the central issue of this case from public view.

Defendant's motion is contrary to both the Court's Order and the Consent Protective Order. The Court should reject Defendant's attempt to circumvent the Order and to rewrite the terms of the Consent Protective Order. Defendant's motion should be denied.

Respectfully submitted this 22nd day of March, 2022.

BUCKLEY BEAL LLP

By: /s/ Edward D. Buckley  
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**LR 7.1(D) FONT COMPLIANCE CERTIFICATION**

The undersigned counsel certifies that the foregoing was prepared using Times New Roman 14-point font in accordance with Local Rule 5.1 of the United States District Court for the Northern District of Georgia.

This 22nd day of March 2022.

By: /s/ Edward D. Buckley  
Edward D. Buckley  
Georgia Bar No. 092750

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 22nd day of March, 2022, I electronically filed the foregoing PLAINTIFF’S RESPONSE TO DEFENDANT’S EMERGENCY MOTION TO SEAL CERTAIN DEPOSITION TRANSCRIPTS AND PLEADINGS FILED BY PLAINTIFF IN SUPPORT OF HIS MOTION FOR SUMMARY JUDGMENT with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to all counsel of record.

BUCKLEY BEAL LLP

By: /s/ Edward D. Buckley  
Edward D. Buckley  
Georgia Bar No. 092750

