

IN THE FRANKLIN COUNTY MUNICIPAL COURT
COLUMBUS, OHIO

REAL SOLUTIONS REALTY GROVE CITY, LLC

Plaintiff,

v.

Defendant.

Case No. 2018 CVG 29089
JUDGE TYACK

FRANKLIN COUNTY
MUNICIPAL COURT
JUDGE TYACK

2019 FEB -7 AM 9:51

FILED

JUDGMENT ENTRY

This case came before the Court for non-oral hearing on Defendant G's Motion to Expunge the Record filed on September 21, 2018. Plaintiff has not responded to this Motion. A record of the proceedings was not made.

Defendant's Motion contains several legal concepts, all relating to the same request, namely to have Defendant's personal identifiers removed from public access. The term "expungement" is not really applicable because pursuant to current statutes, expungement applies only to charges brought against victims of human trafficking and charges for certain firearm statutes. However, previous versions of the current record sealing statute, R.C. 2953.32, did refer to it being an expungement procedure.

The more appropriate term in that regard would be a request to seal the record under R.C. 2953.32. Defendant offers case law to support that argument, citing *Schussheim v. Schussheim*, 137 Ohio St.3d 133, 2013-Ohio-4529. In *Schussheim*, a sharply divided Court held that the sealing of a record may be appropriate in a civil case. That Court ordered the record of proceedings in a dissolved Civil Protection Order case sealed. The *Schussheim* decision relied heavily on *Pepper Pike v. Doe*, 66 Ohio St.2d 374, 421 N.E.2d 1303 (1981), which dealt with the sealing of a dismissed criminal case. At that time, the record sealing statute only authorized sealing of convictions, not dismissals. The *Pepper Pike* Court had some hurdles to overcome, but ultimately sealed the record of the dismissed case. Subsequent to *Pepper Pike*, R.C.,

Section 2953.52 was passed, authorizing sealing of the record of proceedings in dismissed cases.

The most relevant authority cited, however, is Rule 45(E) of the Rules of Superintendence For the Courts of Ohio, which allows restriction of public access to a case document. Under Sup.R. 45(E)(2), a court shall restrict public access to information in a case document or, if necessary, the entire document, if it finds by clear and convincing evidence that the presumption of allowing public access is outweighed by a higher interest after considering each of the following:

- (a) Whether public policy is served by restricting public access;
- (b) Whether any state, federal, or common law exempts the document or information from public access;
- (c) Whether factors that support restriction of public access exist, including risk of injury to persons, individual privacy rights and interests, proprietary business information, public safety, and fairness of the adjudicatory process.

Applying the above tests to this case, the Court finds, by clear and convincing evidence, that a public policy is served by restricting public access to parts of this file.

Defendant argues that maintaining this eviction case against her in the public access records affects her future ability to obtain housing. This Court agrees. Simply seeing an eviction filed against her might lead a potential landlord to believe that she either did not pay rent in a timely manner or that she did not vacate the premises in a timely manner, when in reality, neither of those scenarios existed.

In reviewing the Court file, it should be noted that on May 10, 2018, Plaintiff's representative and Defendant signed an agreement for mutual rescission of the lease

and Defendant vacated the property at the end of May, more than two months before this case was even filed. Maintaining a public record of Defendant's involvement in this case is misleading and prejudicial to the Defendant. It is also violates public policy by promulgating inaccurate information. This Court finds that by the authority found in Rule of Superintendence 45(E)(2), any reference to Defendant D G should be removed from public access by redaction of her name and replacing any reference to her with the initials D.G.

Based upon the foregoing, it is hereby

ORDERED and **ADJUDGED** that Defendant's Motion be, and hereby is SUSTAINED. It is further

ORDERED and **ADJUDGED** that the Clerk shall redact any reference to Defendant D G s name, replacing the name with the initials D.G. throughout this case file.


JUDGE DAVID B. TYACK

CC:

Solomon Parini
WILLIS LAW FIRM LLC
141 East Town Street, Ste. 200
Columbus, Ohio 43215
COUNSEL FOR PLAINTIFF

James Mackey, Esq.
THE LEGAL AID SOCIETY OF COLUMBUS
1108 City Park Avenue
Columbus, Ohio 43206
COUNSEL FOR DEFENDANT

