

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

RHONDA COVERT,	:	
	:	
Plaintiff	:	Civil Action 2:08-cv-744
	:	
v.	:	Judge Graham
	:	
MONROE COUNTY DEP'T OF JOB AND FAMILY SERVICES,	:	Magistrate Judge Abel
	:	
Defendant	:	

ORDER

On April 21, 2010, the Court issued an order for Plaintiff to show cause why it should not unseal deposition transcripts of Vaughn Smith and Gary Truax, and a memorandum contra summary judgment and exhibits, which Plaintiff purported to have filed under seal.¹ Plaintiff has responded with a list of those document pages which it states contains information which could be used to identify a current or former client or individual receiving services from Defendant. Accordingly, the

¹ Plaintiff repeatedly asserts, and attaches email correspondence to the effect, that the counsel for both parties agreed that certain documents should be filed under seal. A federal court cannot delegate the power to determine what should be sealed to the litigants; “[t]he parties to a lawsuit are not the only people who have a legitimate interest in the record compiled in a court proceeding.” *Citizens First Nat’l Bank of Princeton v. Cincinnati Ins. Co.*, 178 F.3d 943, 944 (7th Cir. 1999). As the Court noted in its April 21, 2010 show cause order, the protective order in this case neither contained nor implied such authority, whether or not counsel agreed to such sealing.

Court determines as follows:

- Vaughn Smith deposition (Doc. 43): As Plaintiff concedes that this deposition transcript need not be sealed, the Clerk of Court is **DIRECTED** to unseal Doc. 43.

- Gary Truax deposition (Doc. 44): Plaintiff asserts, and it appears to the Court, that certain pages of this deposition transcript specifically identify certain persons who do receive or may have received services from Defendant. Plaintiff is **ORDERED** to, within ten (10) days of entry of this Order, file a version of the Truax deposition transcript which either substitutes abbreviated names for, or redacts the names of, individual clients of Defendant identifiable on pp. 54, 58-65, 67-68, 72, 77-78, 80, 113, 115, and 116 of the Truax deposition transcripts. The existing Doc. 44 will remain sealed.

- Plaintiff's memorandum in opposition (Doc. 45): Plaintiff asserts, and it appears to the Court, that certain pages of this brief specifically identify certain persons who receive or may have received services from Defendant. Plaintiff is **ORDERED** to, within ten (10) days of entry of this Order, file a version of her memorandum contra which substitutes or redacts the name of the relevant client on p. 12 of the brief, the name and occupation of the child's father on p. 13 of the brief, and the names of the relevant client, foster parents, and guardian *ad litem* on p. 16 of the brief. The Court is satisfied that the identity of the minor referred to on p. 14 of the brief is adequately protected.

- Exhibits to Plaintiff's memorandum in opposition: Plaintiff has specifically

identified those exhibits which contain information identifying specific clients. Accordingly, the Clerk of Court is **DIRECTED** to unseal the following attachments to Doc. 25 which do not contain such information: 1 (Exhibit 1), 2 (Exhibit 2), 3 (Exhibit 3), 13 (Exhibit 4j), 14 (Exhibit 4k), 16 (Exhibit 4m), 18 (Exhibit 4o), 19 (Exhibit 4p), 22 (Exhibit 4s), 23 (Exhibit 4t), 25 (Exhibit 5), 26 (Exhibit 6), 28 (Exhibit 8), 31 (Exhibit 11), 32 (Exhibit 12), 33 (Exhibit 13), 34 (Exhibit 14), 35 (Exhibit 15), 36 (Exhibit 16), 37 (Exhibit 17), 38 (Exhibit 18), 39 (Exhibit 19), 40 (Exhibit 20), 42 (Exhibit 22), 43 (Exhibit 23), 44 (Exhibit 24), 45 (Exhibit 25), 48 (Exhibit 28), 49 (Exhibit 30), 51 (Exhibit 32), 52 (Exhibit 33), 53 (Exhibit 34), 56 (Exhibit 37), 57 (Exhibit 39), 58 (Exhibit 40), 59 (Exhibit 41), 60 (Exhibit 42), 61 (Exhibit 43), 62 (Exhibit 44), 63 (Exhibit 45).

Plaintiff has, additionally, suggested that Defendant's motion for summary judgment and the deposition transcript of Plaintiff Rhonda Covert which accompanied it improperly disclosed information concerning clients of Defendant, and that the Court should order it to show cause why these documents should not be redacted, stricken, or sealed. Defendant is **DIRECTED** to respond to this request within seven (7) days of the date of entry of this Order. However, it does appear to the Court that, although Defendant has attempted to redact personal names in the Rhonda Covert deposition transcript, that redaction is in places (such as pp. 72 and 91 of the transcript) not satisfactory to obliterate the names of certain individuals. Defendant's counsel are additionally **DIRECTED** to provide the Clerk

of Court within seven (7) days of the date of entry of this Order with a new copy of the deposition transcript to substitute for Doc. 25-1 which renders the redacted names properly illegible.

Plaintiff also moves (Doc. 47, fn1) to strike or exclude from consideration this deposition transcript on grounds that it was not accompanied by a certificate that the witness was sworn and that the transcript is an accurate record. Fed. Rs. Civ. Pro. 30(f)(1), 56(e)(1); S.D. Ohio Civ. R. 5.4(b). The motion is denied, provided that Defendant, within seven (7) days of the date of entry of this order, file a certificate in compliance with these rules.

Under the provisions of 28 U.S.C. §636(b)(1)(A), Rule 72(a), Fed. R. Civ. P. and Eastern Division Order No. 91-3, pt. F, 5, either party may, within fourteen (14) days after this Order is filed, file and serve on the opposing party a motion for reconsideration by the District Judge. The motion must specifically designate the order, or part thereof, in question and the basis for any objection thereto. The District Judge, upon consideration of the motion, shall set aside any part of this Order found to be clearly erroneous or contrary to law.

s/Mark R. Abel
United States Magistrate Judge