

STATE OF MICHIGAN  
WASHTENAW COUNTY TRIAL COURT  
FAMILY DIVISION

PETER FAYROIAN,  
Plaintiff,

Case No.: 20-326-DM

Hon. Tracy E. Van den Bergh

v.

RACHAEL WARING (f/k/a Rachael Fayroian),  
Defendant.

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**ORDER AND OPINION DENYING PLAINTIFF'S MOTION FOR A PROTECTIVE  
ORDER TO SEAL THE FILE**

At a Session of the Court held in Ann Arbor,  
Michigan on November 12, 2024.

**PRESENT: HONORABLE TRACY E. VAN DEN BERGH, Circuit Court Judge**

This matter is before the Court on Plaintiff's Motion for a Protective Order to Seal the File. The Court dispenses with oral argument pursuant to MCR 2.119(E)(3) and decides this matter pursuant to the written pleadings. The hearing scheduled for November 13, 2024, at 1:30 p.m. is cancelled and for the following reasons, Plaintiff's Motion is denied.

Under MCR 8.119(I)(1) a court may not enter an order that seals courts records, in whole or in part, in any action or proceeding, unless: "(a) a party has filed a written motion that identifies the specific interest to be protected, (b) the court has made a finding of good cause, in writing or on the record, which specifies the grounds for the order, and (c) there is no less restrictive means to adequately and effectively protect the specific interest asserted." *Daoudi v. Adkins*, 2008 Mich. App. LEXIS 1428. MCR 8.119 (I)(2) also requires that the court consider: "(a) the interests of the parties, including, where there is an allegation of domestic violence, the safety of the alleged or potential victim of the domestic violence, and (b) the interest of the public."

While Michigan's case law on sealing records is limited, courts elsewhere have permitted sealing in cases where the moving party establishes that sealing records is necessary to safeguard a child's interest. However, even in such circumstances, courts have ruled sealing must be narrowly tailored. See, *Copeland v Copeland*, 07-0177 (La 10/16/07); 966 So 2d 1040 (court found redaction, not blanket sealing, as appropriate, to balance the public right of access against privacy concerns regarding the couple's children). Federal Courts in Michigan have also ruled that courts must narrowly tailor their decision so that the seal itself is no broader than necessary. See, *Krueger v Experian Info Solutions, Inc.*, \_\_\_ F Supp 3d \_\_\_; 2020 U.S. Dist. LEXIS 264830 (ED Mich, Mar. 4, 2020) (Court declines to seal records, citing Michigan's 6th Circuit standard favoring open judicial records), *In re Flint Water Cases*, 2022 U.S. Dist. LEXIS 31244; *Doe v. Plymouth-Canton Cmty. Schs.*, 2021 U.S. Dist. LEXIS 229491 (Court weighs interests in support of and against disclosure against one another, ensuring the seal is no broader than necessary); *Est. of Roth v. Mahmood*, 2024 U.S. Dist. LEXIS 14637 (Court maintains presumption favoring open judicial records and seals that are no broader than necessary).

The Court declines to seal the domestic file in this case. While Plaintiff has identified specific interests in nondisclosure, the Court finds that these concerns do not rise to the level of a compelling interest that justifies a seal. The Court does not find that there is a specific and viable claim to protect the children's interests. To the contrary, the Court finds it is primarily Plaintiff's reputation that he seeks to protect and that does not provide good cause to seal this file. The Court also notes that sexual abuse allegations have already been made public, thus any risk from disclosure to the alleged victim (or alleged perpetrator) is essentially moot. In fact, Plaintiff himself, has widely disseminated information about this case to numerous notable members of the Ann Arbor community, to support his court filings denying sexual abuse allegations. This

includes teachers and counselors at his daughter's school, where Plaintiff is principal and over whom he arguably has supervisory powers, a local state representative, University of Michigan physicians, professors and department heads, neighbors, a former federal prosecutor, and others. In total, Plaintiff attached 38 "character letters of support" to his motion denying allegations that he sexually abused his daughter and attesting to his fitness as a parent, even though such letters are inadmissible hearsay and cannot be considered by this Court. Plaintiff now raises privacy concerns after discussing this case and soliciting letters from 38 individuals. It strikes this Court that Plaintiff did not have the same qualms when he discussed this case with at least 38 people, including teachers at this daughter's school, and various members of the community where his daughter resides, while soliciting his letters of support.

Further, given the recent publication of a news story in the Ann Arbor Independent and Plaintiff's position and employment as the principal of Greenhill schools, at which he oversees the education of multiple children, there is a public interest in this case which includes an allegation of sexual abuse against a minor child. While the Court notes these allegations have not been substantiated by Child Protective Services and Plaintiff has not been criminally charged at this time, the public still has an interest in the investigation and determination of these claims in the domestic matter. For these reasons, the Court does not find that there is good cause to seal this file and DENIES PLAINTIFF'S MOTION.

IT IS SO ORDERED.



Hon. Tracy Van den Bergh