

CAUSE NO. 20-08-26306

IN THE MATTER OF THE  
MARRIAGE OF

JAY KEITH SEARS  
AND  
DEBRA LOUISE MCLEOD

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IN THE COUNTY COURT AT LAW

OF

WALLER COUNTY, TEXAS

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DOLCEFINO MEDIA’S SUPPLEMENTAL BRIEF IN SUPPORT OF MOTION TO UNSEAL RECORDS

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Now comes, DOLCEFINO COMMUNICATIONS, LLC d/b/a DOLCEFINO MEDIA (“Intervenor” or “Dolcefino Media”) (“Intervenor”), and files this Supplemental Brief in Support of Motion to Unseal Records and respectfully shows the following:

**I. SUMMARY OF REPLY**

1. The as-applied sealing of records in this case violates both Texas law and constitutional principles. Dolcefino Media, as a media entity with an established role in watchdog journalism, has a justiciable interest and constitutional standing to challenge the sealing.

2. Pursuant to the recent Opinion issued in Fourteenth Court of Appeals Case No. 14-25-00555-CV, the Court has been directed to vacate the May 23, 2025 order denying Dolcefino Media’s Petition in Intervention and Motion to Unseal Records. The opinion further clarifies that this Court has jurisdiction to rule on Dolcefino’s Motion to Unseal and that, at the very least,

**Orders may not be sealed from the public:**

<sup>8</sup> Court orders and opinions are not included within rule 76a’s definition of “court records” to which the sealing procedures apply. Tex. R. Civ. P. 76a(1). This is clear from the rule’s text, which distinguishes between court orders and opinions on the one hand, and “other court records” on the other, and provides “no court order or opinion issued in the adjudication of a case may be sealed.” *Id.*

*Image 1: In re Dolcefino Commc’ns, LLC, No. 14-25-00555-CV, slip op. at 11-12 (Tex. App.—Houston [14th Dist.] Aug. 28, 2025, orig. proceeding) (mem. op.)*

3. The Fourteenth Court of Appeals Opinion states that the February 4, 2021 Sealing Order, as applied in this matter, violates the law. Therefore, the Court should unseal public records as discussed in detail below.

## II. PROCEDURAL POSTURE

4. The parties entered into an Agreed Order Sealing Court Records on February 4, 2021. The Agreed Order Sealing Court Records specifically states:

*“[A]ll documents bearing Cause No. 20-08-26306 and styled /n the Matter of the Marriage of Jay Keith Sears and Debra Louise McLeod are sealed, **except those documents that are required by law to be recorded in the minutes of the Court.** Such records will not be available for the public by the District Clerk and will otherwise not be disclosed by the District Clerk to persons other than a party of this case, attorneys of record for the parties, the regular staff of the parties' attorneys, certified court reporters and their staffs, and the personnel of the Court.*

5. **This Court had jurisdiction to seal and unseal those same records.**

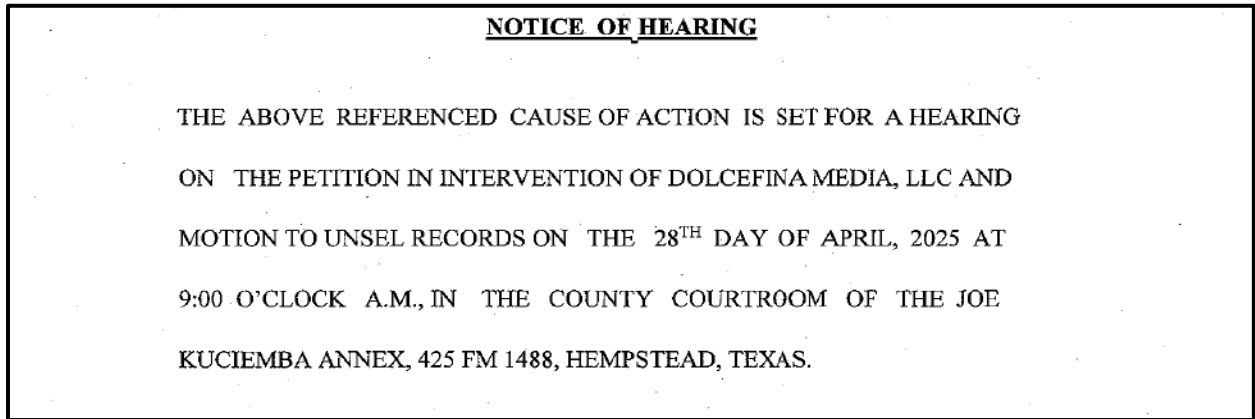
6. The Clerk, in response to the Agreed Order Sealing Court Records, completely disabled the public’s access to information related to this case—no case number, no docket entries, no orders — not even the existence of the case is discoverable via the online portal.

Civil, Family & Probate Case Records Search Results				
<a href="#">Skip to Main Content</a> <a href="#">Logout My Account</a> <a href="#">Search Menu</a> <a href="#">New Civil Search</a> <a href="#">Refine Search</a>				Location : All Courts <a href="#">Help</a>
Record Count: 0				
Search By: Case Case Search Mode: Number Case Number: 20-08-26306 All All Sort By: Filed Date				
Case Number	Style	Filed/Location	Type/Status	
No cases matched your search criteria.				

Image 2: Screen Shot of Waller Tylertech Case Search Return for 20-08-26306, May 22, 2025.

7. On April 16, 2025, Dolcefino Media filed a Petition in Intervention and Motion to Unseal Records in this Action, then pending before the Honorable Judge Robert J. Kern, sitting by assignment in the County Court at Law No. 1 of Waller County, Texas. Dolcefino Media's intervention and motion sought to restore public access to judicial records that had been sealed under the February 4, 2021 Order.

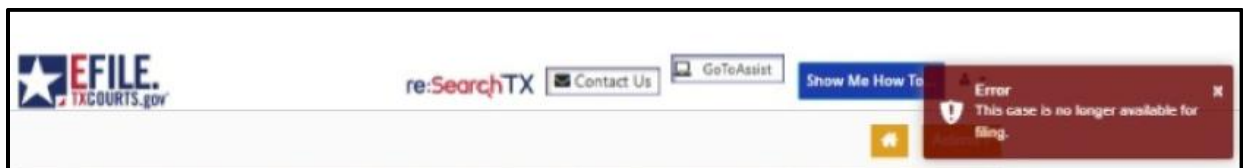
8. On April 21, 2025, The Waller County Court at Law No. 1 issued a Notice of Hearing stating that Dolcefino Media's Petition in Intervention and Motion to Unseal Records was set for hearing before Judge Kern on April 28, 2025.



*Image 3: Notice of Hearing, April 21, 2025.*

9. Petitioner Sears filed a "Motion to Strike Petition in Intervention, and in the Alternative, Response in Opposition to Motion to Unseal Records." Sears argued, among other things, that Dolcefino Media lacked standing to intervene because family law cases are exempt from the sealing procedures in Texas Rule of Civil Procedure 76a applicable to "court records" and that Dolcefino Media lacked a justiciable interest in the divorce proceeding.

10. On April 28, 2025, Dolcefino Media attempted to file a supplemental brief in support of its Motion to Unseal and found that, despite being a party to the case, its online filing access had been unilaterally revoked by the Waller County District Clerk.

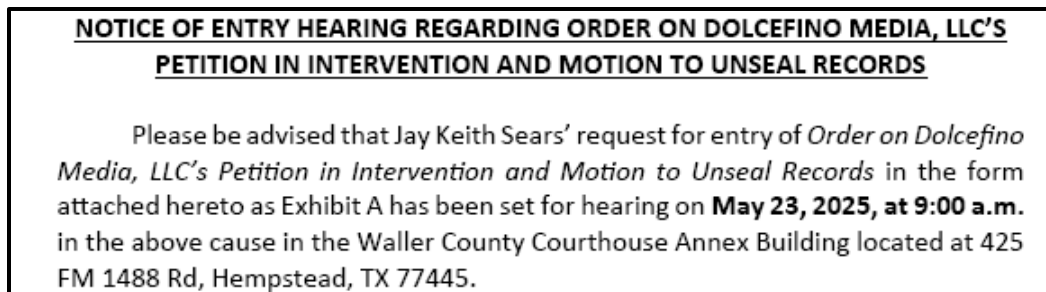


*Image 4: Screenshot of Error Message Provided by the EFILETXCOURTS, Apr. 28, 2025.*

11. During the April 28, 2025, docket, Judge Kern, presiding, announced that he did not have jurisdiction to hear the Motion to Unseal filed by Dolcefino Media in the Sears Divorce

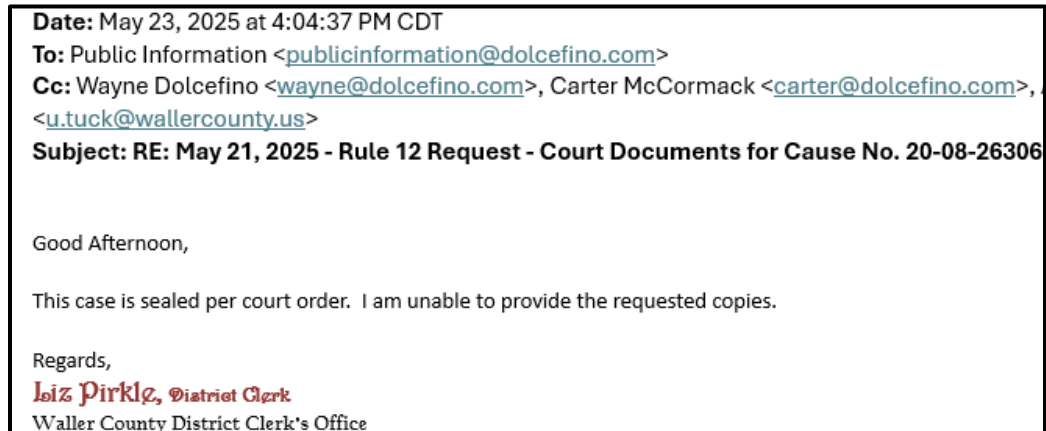
Case and refused to call the Petition in Intervention and Motion to Unseal for hearing. Employees of the District Clerk's Office of Waller County were present.

12. On May 20, 2025, Mr. Sears filed a Notice of Entry Hearing, setting Dolcefino Media's Petition in Intervention and Motion to Unseal for oral hearing on May 23, 2025. As is the custom, Sears was given this hearing date by the Waller County District Clerk.



*Image 5: Notice of Entry Hearing, May 20, 2025.*

13. On May 21, 2025, Dolcefino Media sent a formal request for case documents which was met with opposition and continued withholding of the court records.



*Image 6: Email re: May 21, 2025 - Rule 12 Req. - Court Documents for Cause No. 20-08-26306, May 23, 2025.*

14. During the May 23, 2025, docket, Judge Kern, presiding, again announced that he did not have jurisdiction to hear any Motion to Strike or other proceedings related to the Intervention or Motion to Unseal filed by Dolcefino Media in the Sears Divorce Case and refused to call the matters for hearing.

15. Shortly after the May 23, 2025, docket, Judge Kern signed a written order stating: “IT IS THEREFORE ORDERED that Intervenor’s Petition and Motion to Seal is DENIED for lack of jurisdiction.”

16. As a result of the court’s refusal to rule, and the Clerk’s continued blackout of judicial records—including public documents that are required to remain available under law—Dolcefino Media initiated a separate action for injunctive relief in Cause No. CV25-06-0147, styled *Dolcefino Communications, LLC d/b/a Dolcefino Media v. Martha Elizabeth Pirkle*, in her official capacity as District Clerk of Waller County, Texas, in the 506th Judicial District Court.

17. At a hearing on June 23, 2025, Judge Joseph Ann Ottis (sitting by assignment) denied Dolcefino Media’s Application for Temporary Restraining Order, expressly stating that the trial court’s refusal to rule on Dolcefino Media’s motion—and the scope of the sealing order—should be addressed by the Court of Appeals through a petition for writ of mandamus.

18. On July 14, 2025, Dolcefino Media filed an Emergency Petition for Writ of Mandamus in the Fourteenth Court of Appeals in appellate cause number 14-25-00555-CV. The petition challenged the trial court’s refusal to hear the motion and the constitutionality of the blanket sealing.

19. On August 28, 2025, the Fourteenth Court of Appeals conditionally granted Relator Dolcefino Media’s Emergency Petition for Writ of Mandamus in Cause No. 14-25-00555-CV. The Court held that Dolcefino Media has standing to intervene and seek unsealing of records in this case, and that this Court has jurisdiction to rule on the motion to unseal.<sup>1</sup>

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<sup>1</sup> *Id.* at 13 (“Dolcefino Media invoked this right by its petition in intervention and motion to unseal, which demonstrate standing, and the trial court has jurisdiction to consider and decide the extent to which access ought to be allowed. We thus conclude the trial court abused its discretion in denying Dolcefino Media’s petition in intervention and motion to unseal records for lack of jurisdiction. We also hold that Dolcefino Media has no adequate remedy by appeal. Accordingly, we conditionally grant the petition for writ of mandamus in part and direct the trial court to vacate its May 23, 2025 order denying Dolcefino Media’s ‘Petition in Intervention and Motion to Unseal Records.’ We are

20. The appellate court's opinion emphasized that “Any limitations on media access to court records in this divorce proceeding are not governed by Rule 76a sealing procedures, except that **court orders can never be sealed**. Tex. R. Civ. P. 76a(1). This part of rule 76a applies in family law cases.”<sup>2</sup> and that the trial court had improperly refused to consider Dolcefino's motion for lack of jurisdiction.<sup>3</sup>

21. In compliance with the Fourteenth Court of Appeals' ruling, this Court issued a Notice of Hearing dated September 11, 2025, setting the Motion to Unseal Records for hearing on September 30, 2025. The Court also vacated its prior May 23, 2025 order that had denied jurisdiction over the matter.

22. These appellate findings are now binding and establish beyond dispute that Dolcefino Media has a valid legal right to participate in this matter as an intervenor, and to challenge the unconstitutional sealing of public judicial records.

23. As discussed in prior filings and briefing, the records at issue were sealed via an agreed order between the parties, without the procedural safeguards required by Rule 76a or the common law. There was no public notice, no motion, no hearing, and no analysis. The appellate court agreed that such sealing procedures fail to satisfy constitutional and statutory requirements and reaffirmed that, at minimum, court records required to be included in the minutes of the court must remain public.

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confident that the trial court will comply, and the writ will issue only if it does not. We deny all other relief requested by Dolcefino Media.”)(emphasis added).

<sup>2</sup> *Id.* at 11-12; *see also In re Bain*, 144 S.W.3d 236, 241 (Tex. App.—Tyler 2004, orig. proceeding); Tex. R. Civ. P. 76a(9) (“Access to documents in court files not defined as court records by this rule remains governed by existing law.”).

<sup>3</sup> *In re Dolcefino Commc'ns, LLC*, No. 14-25-00555-CV, slip op. (Tex. App.—Houston [14th Dist.] Aug. 28, 2025, orig. proceeding) (mem. op.)

24. In light of the appellate ruling, continued sealing of court orders, docket entries, judgments, or other judicial records would constitute direct defiance of the constitutional right of access, the Texas Government Code, and controlling authority.

25. This Court now has an opportunity to ensure compliance with the appellate mandate, reestablish public trust in its own proceedings, and reaffirm the core tenets of open courts under Texas law.

26. Intervenor respectfully urges this Court to: (1) Grant the Motion to Unseal; (2) Vacate the February 4, 2021 Agreed Order Sealing Court Records; and (3) Order that all records previously sealed, which are required by law to be public, be made publicly accessible.

27. The lack of notice and total blackout of case information supports a ruling to unseal records in this case, which Intervenor requests herein.

### **III. MOTION TO UNSEAL RECORDS**

28. Intervenors restate all preceding paragraphs as if set forth fully herein.

29. “The right to intervene to contest closure or sealing derives from the public's right of access, which includes access to court orders.”<sup>4</sup> American judicial proceedings are public.<sup>5</sup> And judges must protect public accessibility for three mutually reinforcing reasons: (1) the public has a right to monitor the exercise of judicial authority;<sup>6</sup> (2) judges are “the primary representative[s] of the public interest in the judicial process”;<sup>7</sup> and (3) the judiciary's institutional legitimacy

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<sup>4</sup> *Dallas Morning News v. Fifth Court of Appeals*, 842 S.W.2d 655, 659 (Tex. 1992):

<sup>5</sup> *Matter of Krynicki*, 983 F.2d 74, 75 (7th Cir. 1992) (Easterbrook, J.).

<sup>6</sup> See *Bradley on behalf of AJW v. Ackal*, 954 F.3d 216, 224 (5th Cir. 2020) (“The public ‘has a common law right to inspect and copy judicial records.’”); *Citizens First Nat. Bank of Princeton v. Cincinnati Ins. Co.*, 178 F.3d 943, 945 (7th Cir. 1999) (Posner, J.) (“[T]he public at large pays for the courts and therefore has an interest in what goes on at all stages of a judicial proceeding.”).

<sup>7</sup> *Citizens*, 178 F.3d at 945.

depends on public trust. Public trust cannot coexist with a system wherein "important judicial decisions are made behind closed doors" and, worse, private litigants do the closing.<sup>8</sup>

30. "Most litigants have no incentive to protect the public's right of access."<sup>9</sup> That's why "judges, not litigants"<sup>10</sup> must undertake a case-by-case, "document-by-document," "line-by-line" balancing of "the public's common law right of access against the interests favoring nondisclosure."<sup>11</sup> Sealings must be explained at "a level of detail that will allow for [appellate] review."<sup>12</sup> And a court abuses its discretion if it "ma[kes] no mention of the presumption in favor of the public's access to judicial records" and fails to "articulate any reasons that would support sealing."<sup>13</sup>

**a. THE SEALING ORDER HAS NOT BEEN ENFORCED AS WRITTEN.**

31. First and foremost, this Intervenor does not argue that substantive documents are permitted to be sealed.

32. The February 4, 2021 Agreed Order Sealing Court Records contains a critical exception clause: it expressly excludes from its scope "*documents that are required by law to be recorded in the minutes of the Court.*" This exception, consistent with statutory public access mandates, incorporates the legislative presumption that certain judicial records are inherently

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<sup>8</sup> *Vantage Health Plan, Inc. v. Willis-Knighton Med. Ctr.*, 913 F.3d 443, 450 (5th Cir. 2019) (quoting *United States v. Holy Land Found. for Relief & Dev.*, 624 F.3d 685, 690 (5th Cir. 2010)); accord *Bradley*, 954 F.3d at 224 (public access to judicial records "promotes the trustworthiness of the judicial process, curbs judicial abuses, and provides the public with a better understanding of the judicial process, including its fairness[, and] serves as a check on the integrity of the system" (quoting *United States v. Sealed Search Warrants*, 868 F.3d 385, 395 (5th Cir. 2017))).

<sup>9</sup> *BP Expl. & Prod., Inc. v. Claimant ID 100246928*, 920 F.3d 209, 211 (5th Cir. 2019).

<sup>10</sup> *Id.*

<sup>11</sup> *Sealed Search Warrants*, 868 F.3d at 390 (case-specific approach (citing *Nixon v. Warner Commc'ns, Inc.*, 435 U.S. 589, 599, 98 S. Ct. 1306, 55 L. Ed. 2d 570 (1978))); *Vantage*, 913 F.3d at 451; *Bradley*, 954 F.3d at 225 (quoting *Van Waeyenberghe*, 990 F.2d at 850).

<sup>12</sup> *Sealed Search Warrants*, 868 F.3d at 397.

<sup>13</sup> *Van Waeyenberghe*, 990 F.2d at 849. In our court, although we sometimes allow information to be sealed, we may require parties to file a redacted copy for the public.



public, including but not limited to docket sheets, final and interlocutory orders, judgments, and other filings constituting judicial actions that must be reflected in the clerk's minutes.

33. However, the District Clerk has applied the February 4 2021 Agreed Order Sealing Court Records in a manner which hides the case from the public in its entirety. Allowing the case to remain invisible is a violation of the common law of unsealing, Texas Government Code § 552, the Constitution of the State of Texas, and the United States Constitution.

34. The trial court has the authority to enforce and interpret its own orders.<sup>14</sup> Here, the court's abdication of that duty has permitted the erosion of public transparency protections that both the order and the law are designed to protect. The public's right to access judicial records, as affirmed by both the order and statute, has remained unlawfully suppressed. As such, the sealing, as applied, violates state and constitutional law and the Sealing Order must be enforced as written, to the extent that it complies with state and constitutional law.

**b. RULE 76(A) PROVIDES GUIDANCE REGARDING UNSEALING.**

35. Texas Rule of Civil Procedure 76a ("Rule 76a"), requires court records to remain open to the public unless the public's interest is far outweighed by the parties' right to privacy. However, Rule 76a contains an exception for cases arising from the Family Code.

36. The Fourteenth Court of Appeals has expressly stated that, "Any limitations on media access to court records in this divorce proceeding are not governed by Rule 76a sealing procedures, except that court orders can never be sealed. Tex. R. Civ. P. 76a(1). This part of rule 76a applies in family law cases."<sup>15</sup>

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<sup>14</sup> See *In re Finley Resources Inc.*, 538 S.W.3d 520, 523 (Tex. App.—Texarkana 2017, orig. proceeding).

<sup>15</sup> *Id.* at 11-12; see also *In re Bain*, 144 S.W.3d 236, 241 (Tex. App.—Tyler 2004, orig. proceeding); Tex. R. Civ. P. 76a(9) ("Access to documents in court files not defined as court records by this rule remains governed by existing law.").

37. Although the common law recognizes an increased right to and need for privacy in family cases, it likewise demands that certain records remain open to the public to uphold public trust in the judiciary.<sup>16</sup> This is hardly a new concept.<sup>17</sup>

38. Specifically, as further detailed in the sections below, the common law of unsealing, the Texas Government Code and both the Texas and United States Constitutions require that docket sheets, judicial orders, hearing notices, and other public filings, must remain available to the public even when the rest of the case is sealed.<sup>18</sup>

**c. THE SEALING, AS APPLIED, CONSTITUTES A VIOLATION OF COMMON LAW RIGHT TO ACCESS COURT RECORDS.**

39. In *June Med. Servs., L.L.C. v. Phillips*, a case famous for challenging Louisiana’s abortion statute, a little-noticed but significant dispute over sealed court records boiled over.<sup>19</sup> On one side, plaintiff physicians sought anonymity and confidentiality in light of potential threats to their physical safety and patient privacy.<sup>20</sup> On the other side, Louisiana asserted the public’s longstanding right to access court records.<sup>21</sup> Ultimately, the Fifth Circuit agreed with Louisiana, vacating the sealing order.<sup>22</sup> The court authored a resounding affirmation of public-access rights, observing that the “public’s right of access to judicial records is a fundamental element of the rule of law” and that “[t]his right serves to promote trustworthiness of the judicial process, to curb judicial abuses, and to provide the public with a more complete understanding of the judicial

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<sup>16</sup> See *June Med. Servs., L.L.C. v. Phillips*, 22 F.4th 512, 520 (5th Cir. 2022) (“public’s right of access to judicial records is a fundamental element of the rule of law” ... “[t]his right serves to promote trustworthiness of the judicial process, to curb judicial abuses, and to provide the public with a more complete understanding of the judicial system, including a better perception of its fairness.”)

<sup>17</sup> See, e.g., *Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 597 (1978).

<sup>18</sup> Tex. Gov’t Code § 552.022(a)(12), (17); see also Tex. Const. art. I, § 8, 13; U.S. Const. amend. I.

<sup>19</sup> *June Med. Servs., L.L.C. v. Phillips*, 22 F.4th 512, 515 (5th Cir. 2022)

<sup>20</sup> See *id.*

<sup>21</sup> See *id.* at 516-17.

<sup>22</sup> See *id.* at 521-22.

system, including a better perception of its fairness.”<sup>23</sup> With respect to the court documents, the court stated:

*In the context of publicly available documents, those already belong to the people, and a judge cannot seal public documents merely because a party seeks to add them to the judicial record. We require information that would normally be private to become public by entering the judicial record. How perverse it would be to say that what was once public must become private—simply because it was placed in the courts that belong to the public. We will abide no such absurdity.*<sup>24</sup>

40. In 1978, the Supreme Court recognized the public’s common law right to inspect and copy court records in *Nixon v. Warner Commc’ns, Inc.*<sup>25</sup> The Supreme Court observed that, “[i]t is clear that the courts of this country recognize a general right to inspect and copy public records and documents, including judicial records and documents.”<sup>26</sup> This common law presumption is justified by “the citizen’s desire to keep a watchful eye on the workings of public agencies, and in a newspaper publisher’s intention to publish information concerning the operation of government.”<sup>27</sup>

41. It is clear that our highest Court has recognized the common law right to attend civil court proceedings and inspect court records. Despite this longstanding precedent, all filings in this matter remain under seal and this Court has failed to consider the merits of, or rule upon, Intervenor’s Motion to Unseal. This refusal is a violation of the common law of unsealing.

**d. THE SEALING, AS APPLIED, CONSTITUTES A VIOLATION OF TEXAS GOVERNMENT CODE § 552.321.**

42. Intervenor incorporates the foregoing factual allegations as if herein quoted verbatim and set forth herein at length.

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<sup>23</sup> See *id.* at 519-20.

<sup>24</sup> *June Med. Servs., L.L.C. v. Phillips*, 22 F.4th 512, 520 (5th Cir. 2022).

<sup>25</sup> *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 597 (1978).

<sup>26</sup> *Id.*

<sup>27</sup> *Id.* at 598 (internal citations omitted)

43. The purpose of the Public Information Act is to maintain the people's control "over the instruments they have created."<sup>28</sup> Texas Government Code § 552.022 states:

"(a) Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and not excepted from required disclosure unless made confidential under this chapter or other law: ... (12) final opinions, including concurring and dissenting opinions, and orders issued in the adjudication of cases ... (17) information that is also contained in a public court record."<sup>29</sup>

44. Under Texas Government Code § 552.022(a)(12) and (17), final opinions, including concurring and dissenting opinions, orders issued in the adjudication of cases, and information contained in a public court record are not subject to withholding and must remain available to the public. The documents encompassed by the Sealing Order's exception provision fall squarely within this statutory scheme.

45. The sealing order does not purport to override the Government Code, and as such, it must be interpreted and applied in harmony with controlling law. The Clerk's implementation of a policy that conceals even the case's existence, its docket, and operative court rulings is contrary not only to the plain language of the sealing order itself but also to the public-access mandates of Texas law. The failure to enforce this exception as written renders the order unlawful in its administration, even if its general terms were initially agreed to by the parties.

46. At the very least, the withholding of the case file itself from the public, which in turn blocks public access to any opinions and orders entered in the Sears Divorce Case, is an illegal violation of the common law, the Texas Government Code, The Texas Constitution, and the United States Constitution, and must be remedied.

**e. THE SEALING, AS APPLIED, CONSTITUTES A VIOLATION OF THE FIRST AMENDMENT OF THE**

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<sup>28</sup> Tex. Gov't Code § 552.001(b); see *A & T Consultants v. Sharp*, 904 S.W.2d 668, 675 (Tex. 1995).

<sup>29</sup> Texas Government Code § 552.022(a)(12),(17).

## UNITED STATES CONSTITUTION.

47. The common law and First Amendment rights of access guarantee access to court records absent “compelling reasons” to seal them.<sup>30</sup>

48. The First Amendment to the United States Constitution provides that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”<sup>31</sup> First Amendment protections are made applicable to state and local governments through the Fourteenth Amendment.<sup>32</sup>

49. In *Press-Enterprise II*, the Supreme Court reviewed a magistrate’s decision to close a forty-one-day preliminary hearing in a high-profile murder case, refused to release a transcript, and sealed the hearing.<sup>33</sup> Writing for the Court, Chief Justice Burger announced the two-part “experience and logic” test for determining whether the First Amendment presumption of access applies. First, the Court considered “whether the place and process have historically been open to the press and general public” (the “experience” prong). Second, the Court “considered whether public access plays a significant positive role in the functioning of the particular process in question” (the “logic” prong). If public access “passes these tests of experience and logic, a qualified First Amendment right of public access attaches.”<sup>34</sup>

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<sup>30</sup> See, e.g., *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 597-98 (1978) (recognizing the common law right of public access); see also *Bernstein v. Bernstein Litowitz Berger & Grossmann LLP*, 814 F.3d 132, 141 (2d Cir. 2016) (“The ‘presumption of access’ to judicial records is secured by two independent sources: the First Amendment and the common law.”).

<sup>31</sup> U.S. Const. amend. I.

<sup>32</sup> U.S. Const. amend. XIV.

<sup>33</sup> *Press-Enterprise Co. v. Superior Court*, 478 U.S. 1, 3-4 106 S. Ct. 2735 (1986).

<sup>34</sup> *Id.* at 9.

50. When the First Amendment right of public access attaches to a proceeding, court orders closing or sealing the proceeding or related records must satisfy strict scrutiny.<sup>35</sup>

51. *Nixon* and *Press-Enterprise II* were criminal cases, and the Court has never explicitly extended the presumption of access to civil cases, however, virtually every jurisdiction agrees that the presumption of access applies to civil proceedings and records.<sup>36</sup>

52. The complete and indefinite removal of all records, docket entries, and even the existence of Cause No. 20-08-26306 from Waller County’s electronic records system constitutes a wholesale concealment of the case from public scrutiny and constitutes a violation of both Intervenor’s and the public’s First Amendment rights, including the public’s right of access.

53. In this case, no public notice of sealing was issued, no finding was made that confidentiality outweighed the public’s right of access, and the sealing, as applied, is not narrowly tailored to promote any interest contrary to the public’s right to access.

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<sup>35</sup> *Id.* at 9-10 (emphasis added); see also *Press-Enterprise Co. v. Superior Court of Cal.*, 464 U.S. 501, 510 104 S. Ct. 819 (1984) (“The presumption of openness may be overcome only by an overriding interest based on findings that closure is essential to preserve higher values and is narrowly tailored to serve that interest. The interest is to be articulated along with findings specific enough that a reviewing court can determine whether the closure order was properly entered.”).

<sup>36</sup> See, e.g., Dustin B. Benham, *Secrecy and Transparency in Substantive Due Process Litigation*, 76 **SMU L. REV.** 483 (2023) (citing Lee Levine, Seth Berlin, Jay Brown, Gayle Sproul & David Schulz, 1 Newsgathering and the Law (5th ed. 2022), note 36, §6.01 (“Courts also often recognize a presumption of public access to the documents generated in civil litigation, grounded in the common law or in the First Amendment.”)). Courts and legislatures have also adopted a variety of rules and statutes governing public access to court documents. See, e.g., Ind. Code §5-14-3-5.5; Del. Super. Ct. Civ. R. 5(g); Mich. Ct. R. 8.119(F); N.M. R. Civ. P. 1-079; Tex. R. Civ. P. 76a. So far, aside from Rule 5.2 (pertaining to, e.g., redactions of certain sensitive information) there is no Federal Rule of Civil Procedure governing sealing. In this vacuum, district courts have created a variety of disparate local rules. See, e.g., W.D.N.C. Loc. Civ. R. 6.1 (governing sealing in civil cases); E.D. Va. Loc. Civ. R. 5 (same); D. Vt. Loc. Civ. R. 5.2 (same); D. Colo. Loc. Civ. R. 7.2 (same); W.D. Tex. Loc. Civ. R. 5.2 (same). Several federal civil rules have been proposed to govern sealing, including some currently pending before the Civil Rules Advisory Committee. See, e.g., Letter from Eugene Volokh, Professor at UCLA Sch. of L., to the Advisory Comm. on Civ. Rules (Aug. 7, 2020); Letter from Heather Abraham, Professor at Univ. at Buffalo Sch. of L., Alex Abdo, Knight First Amendment Inst. at Columbia Univ., and Jonathan Manes, Professor at Northwestern Pritzker Sch. of L., to the Advisory Comm. on Civ. Rules (Sept. 3, 2021).

54. This unprecedented level of secrecy impairs the press’s ability to monitor the integrity of the judiciary, undermines public confidence, and violates the First Amendment’s structural protection of openness and transparency in the courts.

55. Because these acts were not narrowly tailored to serve a compelling governmental interest, they cannot survive the strict scrutiny applied to restrictions on First Amendment freedoms and the sealing, as applied, is unconstitutional.

56. The suppression of court records directly obstructs this constitutionally protected journalistic function. The District Clerk’s additional revocation of Dolcefino Media’s filing access further chills the right to petition the courts for redress of grievances—another core protection afforded by the First Amendment.

57. These blows to public rights—electronic sealing, withholding of requested information, and denial of filing access—have all presented in a case where substantial questions of judicial integrity have been raised.

58. **The appearance of impropriety in this case is astounding and cannot be tolerated in a society built upon the premise of truth and fairness.**

59. Accordingly, the sealing, as applied, constitutes an ongoing violation of the First and Fourteenth Amendments to the United States Constitution.

**f. THE SEALING, AS APPLIED, CONSTITUTES A VIOLATION OF ARTICLE I, §§ 8, 13 OF THE TEXAS CONSTITUTION.**

60. Article I, § 8 of the Texas Constitution guarantees that “every person shall be at liberty to speak, write or publish his opinions on any subject, being responsible for the abuse of that privilege; and no law shall ever be passed curtailing the liberty of speech or of the press.”<sup>37</sup>

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<sup>37</sup> Tex. Const. art. I, § 8.

Texas courts have interpreted this provision as providing even broader protection for free expression and access to government records than the First Amendment.<sup>38</sup>

61. Article I, § 13 provides that “all courts shall be open, and every person for an injury done him... shall have remedy by due course of law.”<sup>39</sup> The open courts provision guarantees not just access to judicial remedies, but also transparency in the functioning of the courts as a matter of constitutional right.

62. In *Houston Chronicle Publishing Co. v. Shaver*, the Court held that trial judge’s retiring to chambers to conduct remainder of hearing in private was equivalent to closing court to spectators and news reporters, thus denying public right of access to proceedings.<sup>40</sup> The opinion in *Houston Chronicle* discusses the presumption of openness by quoting *Ex parte Foster*:

“our constitution is but in accord with the genius and the spirit of our free institutions, which is intended to guaranty publicity to the proceedings of our courts, and the greatest freedom in the discussion of the doings of such tribunals, consistent with truth and decency. And as has been well said, ‘When it is claimed that this right has in any manner been abridged, such claim must find its support, if any there be, in some limitation expressly imposed by the lawmaking power.’ And this imposition must be in accord with the provisions of our constitution guarantying the publicity of all trials, as well as the freedom of speech and of the press.”<sup>41</sup>

63. The sealing, as applied—removing docket access, court orders, and filings from public view—violate both of these provisions. The concealment of an entire casefile, including judicial orders, deprives the press and public of the transparency required to monitor judicial conduct and public integrity, particularly in matters involving politically-connected individuals and possible misuse of the judicial system.

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<sup>38</sup> See *Davenport v. Garcia*, 834 S.W.2d 4, 7 (Tex. 1992); *Ex parte Tucci*, 859 S.W.2d 1, 13 (Tex. 1993)

<sup>39</sup> Tex. Const. art. I, § 13.

<sup>40</sup> *Houston Chronicle Publishing Co. v. Shaver*, 630 S.W.2d 927, 932 (Tex. Crim. App. 1982).

<sup>41</sup> *Hous. Chronicle Pub. Co. v. Shaver*, 630 S.W.2d 927, 931 (Tex. Crim. App. 1982)(quoting *Ex parte Foster*, 44 Tex. Cr. R. 423, 71 S.W. 593, 595 (1903).



64. No statute permits the District Clerk to unilaterally remove a court record from public access or block electronic filing by a party with a pending motion. Even the February 4, 2021, Agreed Order Sealing Records explicitly exempts from sealing any “documents that are required by law to be recorded in the minutes of the Court.”

65. By denying Intervenor access to public records and disabling court access mechanisms, Defendant has engaged in unconstitutional conduct that violates Intervenor’s rights under both Article I, § 8 and Article I, § 13 of the Texas Constitution.

#### IV. CONCLUSION

66. In this case, there is no sealing analysis—no reasons given, no authorities cited, no document-by-document inquiry, with the secrecy granted "perpetual" and "wholesale." There was "no mention of the presumption in favor of the public's access to judicial records." There was no grappling with public and private interests, no consideration of less drastic alternatives. There was no assurance that the extent of sealing was congruent to the need. Under either the common law constitutional standard, when a court analyzes a request for a sealing order, it must do so on a document-by-document basis, and the proponent of the sealing order must articulate with specificity the injury that would result if the particular document or parts of it were made public.

67. The presumption of openness is Law 101: "The public's right of access to judicial records is a fundamental element of the rule of law."<sup>42</sup> Openness is also Civics 101. The Constitution's first three words make clear that ultimate sovereignty is wielded not by government but by the governed. And because "We the People" are not meant to be bystanders, the default expectation is transparency—that what happens in the halls of government happens in public view.

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<sup>42</sup> *In re Leopold to Unseal Certain Elec. Surveillance Applications & Orders*, 964 F.3d 1121, 1123, 448 U.S. App. D.C. 77 (D.C. Cir. 2020).

68. Much of this case's content has already entered the public domain via appellate filings, public statements, and local controversy.<sup>43</sup>

69. *Cox Broadcasting Corp. v. Cohn*, 420 U.S. 469 (1975), makes clear that once information is in the public domain through public records, the government's ability to maintain secrecy is significantly diminished.

70. Allegations of judicial misconduct, forum shopping, and influence by politically connected developers fall within the zone of core political speech and public scrutiny of governmental action, heightening constitutional protections.

71. The matter implicates health, safety, and infrastructure concerns, due to the role of NewQuest's \$400M development in Waller County and the close ties between developers and public officials.

72. Intervenors thus seek an Order from the Court which (1) vacates this Court's Agreed Order Sealing Court Records signed February 4, 2021, (2) unseals all documents bearing Cause No. 20-08-26306 and styled *In the Matter of the Marriage of Jay Keith Sears and Debra Louise McLeod*, and (3) orders that all documents filed with the Court in this matter be designated as available for public viewing on the District Clerk's online records portal.

## **V. PRAYER**

Wherefore, premises considered, Intervenor Dolcefino Media, LLC prays that this Court grant its Petition in Intervention and Motion to Unseal Court Records, vacate this Court's Agreed Order Sealing Court Records signed February 4, 2021, unseal all documents filed in this matter, order that all documents filed in this matter be designated as available for public viewing on the

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<sup>43</sup> See 14<sup>th</sup> Court of Appeals Cause Nos. 14-23-00641-CV, 14-24-00177-CV, and 14-23-00812.

District Clerk's online records portal, and for such other and further relief, at law or in equity, both general and special, to which the Intervenor may be entitled.

Respectfully submitted,

**THE COBOS LAW FIRM**

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**ATTORNEYS FOR *DOLCEFINO COMMUNICATIONS, LLC*  
*D/B/A DOLCEFINO MEDIA***

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing document was served on all counsel of record in accordance with the Texas Rules of Civil Procedure on September 24, 2025.

/s/ Nicholas Kacal  
Nicholas Kacal