



IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI  
AT KANSAS CITY

JOHN DOE M.S.,

*Plaintiff*

v.

FATHER MICHAEL TIERNEY, et al.

*Defendants*

CASE NO 1016-CV-29995

DIVISION 7

**ORDER GRANTING IN PART AND DENYING IN PART MOTIONS TO  
CONTINUE TO SEAL PORTIONS OF DAVID CLOHESSY'S  
DEPOSITION OF JANUARY 2, 2012**

On this 17th day of January, 2012, this Court takes up for consideration motions to continue to seal portions of the deposition of David Clohessy. On January 2, 2012, David Clohessy was deposed in St. Louis for an extended period of time. A series of pleadings have been filed or emailed to the Court concerning whether of the deposition should remain under seal. The Court has entered rulings concerning the issue as a result of which the seal is to be lifted today, January 17, 2012.

Consistent with this Court's order, Mr. Clohessy's counsel submitted David Clohessy's Motion To Leave Deposition Excerpts Under Seal, on January 16, 2012 at approximately 4:30 p.m., January 16, 2012. At 12:33 a.m. on January 17, 2012, Plaintiff's attorney submitted Plaintiff's Motion to Maintain Portions of the Deposition of David Clohessy Under Seal. Both were submitted by e-mail in light of the fact the courts were closed in celebration of Martin Luther King holiday.

Based on a review of the pleadings, telephone conference with counsel and discussion and review of the applicable law, including the broad range of the Court's discretion, the Court finds as follows:

On January 17, 2012, at 9:45, counsel for Mr. Clohessy, Plaintiff and defendants appeared by conference call. After a lengthy discussion, the parties identified 5 issues which are the focus of the applicable motions. They are as follows:

- 1) The names of SNAP staff, volunteers, family members and donors, based on the claim that many or most of these individuals identify themselves as victims of sexual abuse. These names, except names of Co-executive Directors, Mr. Clohessy and Ms. Barbara Blaine, as well as attorney donors who represent individual litigants, are to be redacted by agreement.
- 2) Information concerning income tax returns which counsel agree are public records. The Court denies the request that these portions of the deposition be filed under seal.
- 3) Financial information which exceeds the public information on the income tax returns from pp 21<sup>1</sup> to 27, pp. 77, p. 90, pp. 93 to 96 and 99 to 100. The Court denies the request that these portions of the deposition be filed under seal.
- 4) Questions concerning the nature and extent of SNAP's advocacy, counseling and publications. The Court denies the request that these portions of the deposition be filed under seal except that the Court will seal the questions on depo. p. 33 line 5 to 8, p198 line 3 to 15, p. 199 line 6 to line 8.
- 5) Questions concerning advocacy and counseling as it relates to specific individuals, if any. The Court orders that the names of specific individuals be redacted.

There is no dispute that much of the information requested to be sealed involves questions asked of Mr. Clohessy to which objections were made and which Mr. Clohessy was instructed not to answer. It was, and remains, the expectation of the Court that at a later date, the Court will separately address motions arising out of claims of freedom of speech, freedom of the press<sup>2</sup>, right to freedom of association pursuant to *NAACP v. Alabama*, 357 U.S. 449 (1958), the

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<sup>1</sup> Counsel used page references on the draft deposition at the right hand margin and at the bottom of the page. While the Court has attempted to delineate the pages consistently, it is apparent that there will be some inconsistency.

<sup>2</sup> At the Court's request counsel provided a copy of the Suggestions of Amicus Curiae in Support of Realtor's Petition for Writ of Prohibition filed in the Missouri Supreme Court filed on or about December 31, 2011.

application of Chapter 455 RSMo. concerning the confidentiality of rape crisis center records and related information.

Counsel for the Plaintiff and for Mr. Clohessy argue that consistent with the Court's broad discretion portions of numerous pages of the deposition should remain sealed in order to prevent the deposition to be available to the public and to protect confidential information. The Court agrees there are matters as to which it should grant significant protections of confidentiality, particularly to protect the names of individuals who have, or may have, been subject to inappropriate conduct and to respect and protect the constitutional rights of SNAP. However, the Court does not believe that the same protection of confidentiality should cover all aspects of the discovery process.

After a review of the deposition it appears no information has been produced concerning SNAP's private contacts with the press, no information has been produced concerning the identities of individuals who claim to be victims and no information has been produced concerning any counseling provided to any individuals who claim to have been abused.

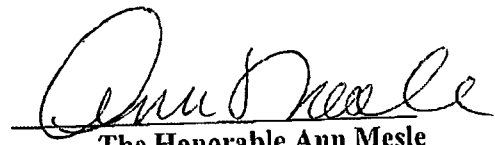
Counsel advised that a draft of a proposed protective order is under review.

Based on all of the above, the Court enters the following order:

**IT IS ORDERED THAT** except as specifically set forth above, the Deposition of David Clohessy is unsealed effective January 17, 2012.

**IT IS SO ORDERED.**

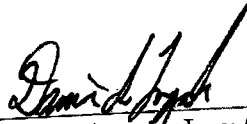
Jan 17, 2012  
Date

  
The Honorable Ann Mesle  
Circuit Court Judge

I certify that copies were distributed on this 17<sup>th</sup> of January, 2012 to:

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