

ORIGINAL



**LORAIN COUNTY COURT OF COMMON PLEAS
LORAIN COUNTY, OHIO**

**TOM ORLANDO, Clerk
JOURNAL ENTRY
John R. Miraldi, Judge**

Date 4/29/20

Case No. 17CV193761

GIBSON BROS INC
Plaintiff

JACQUELINE BOLLAS CALDWELL
Plaintiff's Attorney (-)

VS

OBERLIN COLLEGE
Defendant

JOSH M MANDEL
Defendant's Attorney (-)

**ENTRY AND RULING ON NON-PARTIES'
MOTION FOR ACCESS TO SEALED CASE DOCUMENT**

This matter comes before the Court upon non-parties WEWS-TV, Advance Ohio, and the Ohio Coalition for Open Government's Motion for Access to Sealed Case Document, seeking an order unsealing Exhibit G to the Affidavit of Attorney Cary M. Snyder, counsel for Oberlin College and Meredith Raimondo in the above-case. The above case has concluded, and an appeal of the judgment is pending before the Ninth District Court of Appeals.

Following the conclusion of the trial in this matter, the Defendants filed a similar motion which the Court denied on September 8, 2019. Now, the above-mentioned non-parties have filed a motion arguing that under Sup. R. 45, the Court should unseal the exhibit. The exhibit at issue contains unauthenticated Facebook postings purportedly belonging to non-party Allyn D. Gibson. After the movants initial motion, the Court asked the parties to brief the issue of jurisdiction in light of the pending appeal. Each party then submitted a short brief regarding jurisdiction over the unsealing in addition to their briefing on the movants initial motion to unseal.

Ohio Sup. R. 45 addresses public access to Court records in a variety of different contexts. Ohio Sup. R. 45(F) states:

1. Any person, by written motion to the court, may request access to a case document or information in a case document that has been granted restricted public access pursuant to division (E) of this rule. The court shall give notice of the motion to all parties in the case and, where possible, to





the non-party person who requested that public access be restricted. The court may schedule a hearing on the motion

2. A court may permit public access to a case document or information in a case document if it finds by clear and convincing evidence that the presumption of allowing public access is no longer outweighed by a higher interest. When making this determination, the court shall consider whether the original reason for the restriction of public access to the case document or information in the case document pursuant to division (E) of this rule no longer exists or is no longer applicable and whether any new circumstances, as set forth in that division, have arisen which would require the restriction of public access.

Here, access was originally restricted to Exhibit G under the parties' Mutual Protective Order. That order was agreed-to by the parties and approved and entered by the Court on June 8, 2018. The contents of Exhibit G and their admissibility was at issue during pretrial motions in limine, at which time, a preliminary ruling was issued that these materials could not be utilized as character evidence, but the Court withheld ruling on their admissibility for other purposes. The Defendants made no attempt to introduce the contents of Exhibit G for any reason, nor did they call or attempt to call non-party Allyn D. Gibson as a witness during trial.

At this juncture, the Court, under Ohio Sup. R. 45(F)(2) must consider whether the original reason for restricting public access no longer exists, and whether any new circumstances identified in Sup. R. 45(E) have arisen which would require the continued restriction of public access. The Court, having considered all of the factors in Sup. R. 45(E), hereby finds that the continued restriction of public access is warranted. Of particular importance is Sup. R. 45(2)(c), which includes the risk of injury to persons, individual privacy rights and interests, and fairness of the adjudicatory process. Because of the nature of the information at issue in Exhibit G, the Court also finds that there is no less restrictive alternative to complete restriction.

IT IS SO ORDERED.



John R. Miraldi, Judge

cc: All Parties

