

**IN THE COURT OF COMMON PLEAS OF BLAIR COUNTY,
PENNSYLVANIA**

JOHN DOE et al,
Plaintiffs,

v.

BELLWOOD-ANTIS SCHOOL DISTRICT et al
Defendants

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CIVIL DIVISION
Docket No. 2021-GN-782

JANE DOE et al.
Plaintiffs,

v.

BELLWOOD-ANTIS SCHOOL DISTRICT et al
Defendants.

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CIVIL DIVISION
Docket No. 2021-GN-141

ORDER

AND NOW, this ____ day of _____, 2021, upon consideration of the foregoing motion, it is hereby ordered that:

(1) a rule is issued upon the respondent to show cause why the movant is not entitled to the relief requested;

(2) the respondent shall file an answer to the motion within twenty (20) days of this date; movants are permitted ten (10) days after respondent's filing to file a reply.

(3) the motion shall be decided under Pa. R. Civ. P. No. 206.7.

(4) an evidentiary hearing/oral argument on disputed issues of material fact shall be held on the ____ day of _____, 2021 in Courtroom ____ of the Blair County Courthouse

(5) notice of entry of this order shall be provided to all parties by the movant.

BY THE COURT:

_____ J.

IN THE COURT OF COMMON PLEAS OF BLAIR COUNTY,
PENNSYLVANIA

JOHN DOE et al,
Plaintiffs,

v.

BELLWOOD-ANTIS SCHOOL DISTRICT et al
Defendants

CIVIL DIVISION
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CIVIL DIVISION
Docket No. 2021-GN-782

MOTION TO INTERVENE AND UNSEAL

The *Altoona Mirror* hereby moves for leave to intervene in the above-captioned cases for the limited purpose of unsealing court records in these matters. This Motion is made on the following grounds:

1. The *Altoona Mirror* is a news media company serving Blair and surrounding communities in west central Pennsylvania through print and digital publications. Its business address is 301 Cayuga Ave., Altoona, PA 16602.
2. *Altoona Mirror* reporters routinely cover civil and criminal proceedings in the Blair County Court of Common Pleas. In order to provide their readers with timely and important information about news impacting their community, those reporters frequently rely on court filings, including Magisterial District Judge, Prothonotary, and Clerk of Court records.

3. On Feb. 19, 2021, this Honorable Court issued a seal order in *John Doe et al v. Bellwood-Antis School District et al.*, Docket No. 2021-GN-141. See attached, Exhibit A.
4. Upon information and belief, a companion seal order exists in the case *Jane Doe v. Bellwood-Antis School District et al.*, Docket No. 2021-GN-782. See attached, Exhibit B (docket entry showing “Sealed as of 6/7/2021”)
5. The *Altoona Mirror* should be permitted to intervene for the limited purpose of unsealing court records in these matters.
6. Third parties have standing to challenge the improper sealing of court records. *See United States v. Antar*, 38 F.3d 1348 at 1350 (3d Cir. 1994) (granting third party news organization intervenors’ request for access to a voir dire transcript).
7. Intervention for such challenges is proper even after the underlying case has been closed. *See Leucadia, Inc. v. Applied Extrusion Techs., Inc.*, 998 F.2d 157, 161 n.5 (3d Cir. 1993).
8. The *Altoona Mirror* thus has standing to intervene for the limited purpose of asserting the public’s rights of access to documents filed with the court and ensuring that any denial of access is based upon the trial court’s creation of a record that contains “an articulation of the factors taken in consideration” in determining whether there is a right of access and whether that right has been rebutted by countervailing interests. *Commonwealth v. Fenstermaker*, 530 A.2d 414, 421 (Pa. 1987); *see also Commonwealth v. Upshur, Com. v. Upshur*, 592 Pa. 273, 924 A.2d 642 at 651 (2007) (“[T]he trial court . . . must . . . place on the record its reasoning and the factors relied upon in reaching its decision.”).
9. When assessing whether closure is necessary, “the court should issue individualized, specific, particularized findings on the record that closure is essential to preserve higher values and is narrowly tailored to that interest.” *Commonwealth v. Curley*, 2018 PA Super 147, 189 A.3d 467 at 473 (June 4, 2018) (discussing constitutional right of access).

10. Courts are required to make “document-by-document findings” and not simply “issue[] a blanket conclusion.” *Id.* In addition, the trial court must articulate on the record that “alternatives to closure” were considered and “explicitly state its reasons on the record for rejecting such alternatives.” *Commonwealth v. Buehl*, 462 A.2d 1316, 1322 (Pa. Super. 1983) (quoting *United States v. Criden*, 675 F.2d 550, 560 (3d Cir. 1982)); *see also Commonwealth v. Long*, 922 A.2d 892, 906 (Pa. 2007) (“[C]losure must be supported by specific findings demonstrating that there is a substantial probability that an important right will be prejudiced by publicity and that reasonable alternatives to closure cannot adequately protect the right.”).
11. The on-the-record articulation of reasons for closure must be done “*before* ordering closure” *Buehl*, 462 A.2d at 1323. “Only in that way will those who oppose closure be able to respond. Given a chance to respond, they may be able to persuade the court that it is mistaken, or they may be able to suggest an alternative not thought of by the court but that when thought of, is found to be satisfactory.” *Id.*
12. In considering whether to seal records, “the trial court must inspect the items in camera” before determining whether to restrict access to them. *Upshur*, 924 A.2d at 651 (citing *PG Publ’g Co. v. Commonwealth*, 614 A.2d 1106, 1110 (Pa. 1992)).
13. To the extent countervailing interests overcome the *Altoona Mirror*’s constitutional and common law rights of access to the sealed records in these matters, any sealing must be no broader than necessary to serve those interests and must be supported by specific, on-the-record factual findings.

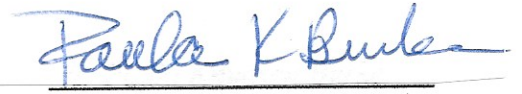
RELIEF SOUGHT

The *Altoona Mirror* respectfully requests that the Court grant its motion to intervene and enter an order unsealing all sealed records in these matters.

Dated: October 21, 2021

Respectfully submitted,

10/22/2021



Paula Knudsen Burke

PA ID 87607

THE REPORTERS COMMITTEE FOR

FREEDOM OF THE PRESS

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Lancaster, PA 17608

(717) 370-6884

pknudsen@rcfp.org

Counsel for Proposed Intervenor

The Altoona Mirror

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a copy of the foregoing, Motion to Intervene and Unseal, on the following persons via email:

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Date:

10/22/2021

Paula K. Burr

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by:

Signature: /s/*Paula Knudsen Burke*

Name: Paula Knudsen Burke

PA Attorney ID: 87607

EXHIBIT A

IN THE COURT OF COMMON PLEAS OF BLAIR COUNTY, PENNSYLVANIA

JOHN A. DOE, a minor by and through
JOHN B. DOE, Guardian and JOHN B.
DOE, an individual,
PLAINTIFFS

2021 GN 141

v.

RYAN BLAZIER
BELLWOOD ANTIS SCHOOL
DISTRICT; THOMAS McINROY;
DON WAGNER; CHARLES BURCH;
THOMAS KOVAC; TIM ANDREKOVICH
DEFENDANTS

FILED
BLAIR COUNTY
ROBIN G. PATTON
2021 FEB 22 AM 9:21
CLERK OF COMMONS COURT

HON. TIMOTHY M. SULLIVAN

PRESIDING JUDGE

BRYAN S. NEIDERHISER, ESQUIRE
BRADLEY E. HOLUTA, ESQUIRE

COUNSEL FOR PLAINTIFFS

RYAN BLAZIER

SELF-REPRESENTED LITIGANT

JAIME N. DOHERTY, ESQUIRE
LISA M. SIEFERT, ESQUIRE

COUNSEL FOR DEFENDANTS,
BELLWOOD ANTIS SCHOOL
DISTRICT, THOMAS McINROY; DON
WAGNER; CHARLES BURCH;
THOMAS KOVAC; TIM ANDREKOVICH


ORDER

AND NOW, this 19th day of February, 2021, this matter having come before the
court on February 18, 2021, it is hereby **ORDERED, DIRECTED and DECREED** as follows:

1. The Plaintiffs' Motion Seeking an Order of Court Granting Permission to Proceed
with John A. Doe and John B. Doe Filings is **granted**.

2. We will initially **grant** the Plaintiffs' Motion to Seal the Docket, however, this will be subject to further court review with counsel in the near future.

BY THE COURT:



J.

EXHIBIT B



Blair County, Pennsylvania

Prothonotary

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Case No: **2021-00782** Filed Date/Time: **03/26/2021 2:26**
 Case Type: **TORT - INTENTIONAL**
 Caption: **JOHN DOE ET AL (vs) BELLWOOD-ANTIS SCHOOL DISTRICT**

Reference No: Judgment Amount: **\$0.00**
 Judge Assigned: SULLIVAN TIMOTHY M Execution Date: 00/00/0000
 Disposed Desc: Jury Trial?
 Case Comments: Disposition Date: 00/00/0000
 SEALED AS OF 6/7/2021 BY TMS Higher Court 1:
 Higher Court 2:

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<input type="checkbox"/>	DOE JOHN A MINOR BY AND THROUGH HIS	PLAINTIFF
<input type="checkbox"/>	PARENT AND GUARDIAN	PLAINTIFF
<input type="checkbox"/>	DOE JANE	PLAINTIFF
<input type="checkbox"/>	DOE JANE AN INDIVIDUAL C/O	PLAINTIFF

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