

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>THERESA M. SERANO,</b>	:	
	:	
<b>Plaintiff,</b>	:	
	:	<b>No. 5:21-CV-00084-JLS</b>
v.	:	
	:	
<b>OFFICER KYLE GOLDEN, et al.,</b>	:	
	:	
<b>Defendants.</b>	:	

**MEMORANDUM OF LAW IN SUPPORT OF *THE MORNING CALL*'S MOTION TO INTERVENE FOR THE LIMITED PURPOSE OF SEEKING AMENDMENT TO THE CONFIDENTIALITY ORDER**

**PRELIMINARY STATEMENT**

Intervenor, *The Morning Call*, is the Lehigh Valley’s leading media organization and the third largest newspaper in Pennsylvania. *The Morning Call* is a frequent requester of public records pursuant to Pennsylvania’s Right to Know Law (“RTKL”), seeking information to support its investigative reporting.<sup>1</sup> *The Morning Call* also uses federal and state court records and proceedings to provide its readers with information about local government, business and those involved with the judicial system.

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<sup>1</sup> See, e.g., Peter Hall, *A ski lift chair plunged at Camelback in March, seriously injuring 3. Here’s what newly released records show about past incidents*, *The Morning Call* (Oct. 1, 2021), <https://www.mcall.com/news/pennsylvania/mc-nws-pa-ski-lift-inspection-records-camelback-injuries-20211001-pbda7ejuyvb5blv5tfccllboive-story.html>; Riley Yates, *Four Lehigh Valley governments paid to settle sexual harassment cases in past few years*, *The Morning Call* (Sept. 21, 2018), <https://www.mcall.com/news/police/mc-nws-lehigh-valley-sexual-harassment-settlements-top-275000-story.html>; Daniel Patrick Sheehan, *Allentown superintendent’s separation agreement revealed. Here’s what’s in it and how much he is getting paid to leave*, *The Morning Call* (Oct. 25, 2022), <https://www.mcall.com/news/local/mc-nws-stanford-separation-agreement-20221025-axaqsdxs45dzrd7bzic3lkepvm-story.html>.

In January of 2021, then-*Morning Call* reporter Peter Hall (“Hall”) broke the news of this lawsuit, writing that the South Whitehall Township (“Township”) and one of its police officers, Kyle Golden, had been named as defendants in a civil rights lawsuit. *See* Peter Hall, *Federal lawsuit accuses former South Whitehall police officer of raping intoxicated woman*, *The Morning Call* (Jan. 11, 2021), <https://www.mcall.com/news/police/mc-nws-former-south-whitehall-police-sexual-assault-20210111-gulmeukq7vcdbm3qczmcejhka-story.html>. The suit, brought under 42 U.S.C. § 1983, alleged Officer Golden raped the Plaintiff. In addition, the complaint alleged that the Township police department had “a history of being disrespectful, sexually harassing, and even assaultive to women . . . all of which were known to the supervisors, decisionmakers, and the Township.” *See* Dkt. No. 1, ¶ 44. According to Plaintiff’s filings, the Township systematically ignored these complaints and neglected to institute policies that would rectify the “routine[]” sexual misconduct for which its Police Department was developing a reputation. *See* Dkt. No. 1, ¶¶ 45–51. According to the docket, the case was settled fairly quickly and was dismissed in September 2021. *See* Dkt. No. 28. Seeking more information about how the instant lawsuit was ultimately resolved—and thus, insight into the Township’s internal protocols and culture—*The Morning Call* has been pursuing the Township’s records involving the settlement through RTKL appeals in the Office of Open Records. *The Morning Call*’s quest to obtain the records is now pending in a RTKL appeal in the Lehigh County Court of Common Pleas, docketed as *Sheehan v. South Whitehall Township*, No. 2022-C-1571.

*The Morning Call* now seeks limited intervention in this Court to obtain an amended order clarifying that the parties’ aforementioned settlement agreement in this case may be obtained through legal process, including via an order by a Court of Common Pleas judge

pursuant to the RTKL. *The Morning Call*'s intervention is proper because permissive intervention is appropriately used to enable a litigant who was not an original party to an action to challenge protective or confidentiality orders entered in that action. *Pansy v. Borough of Stroudsburg*, 23 F.3d 772, 778 (3d Cir. 1994). *The Morning Call* seeks relief in the form of the proposed order attached to the accompanying Motion.

## **FACTUAL BACKGROUND**

### **a. The *Serano v. Golden* Lawsuit**

On January 7, 2021, Plaintiff Theresa Serano filed a complaint against Officer Kyle Golden, both individually and in his official capacity as a member of the South Whitehall Township Police Department, other members of the South Whitehall Township Police Department, and South Whitehall Township itself. *See* Dkt. No. 1. The complaint alleged that on or about the evening of January 7, 2019, Defendant Officer Kyle Golden raped Plaintiff Serano while she was “highly intoxicated and physically and mentally vulnerable.” *Id.* ¶ 12. According to reporting by Mr. Hall, Officer Golden was subsequently discharged from the Police Department in February 2019, but investigations by the Lehigh County District Attorney’s office and state police found no criminal charges were warranted.<sup>2</sup>

Plaintiff Serano further alleged that “members of the South Whitehall Township Police Department have a history of being disrespectful, sexually harassing, and even assaultive to women, as well as for other Constitutional violations—all of which were known to the supervisors, decisionmakers, and the Township.” Dkt. No. 1, ¶ 44. According to Serano, this

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<sup>2</sup> Peter Hall, *Federal lawsuit accuses former South Whitehall police officer of raping intoxicated woman*, *The Morning Call* (Jan. 11, 2021), <https://www.mcall.com/news/police/mc-ews-former-south-whitehall-police-sexual-assault-20210111-gulmeukq7vcdbm3qczomcejhka-story.html>.

pattern of behavior was never investigated nor were any officers disciplined, suggesting this conduct was effectively “condoned, if not encouraged, by deliberately indifferent supervisors, decision-makers, and the Township itself.” *See id.* ¶ 46. What is more, Serano claimed that neither the Township nor the Police Department made available any internal rules or regulations “pertaining to the proper treatment of visib[ly] intoxicated persons, especially females, [and] if they did, [] they were routinely not enforced.” *See id.* ¶ 48. The seemingly inescapable conclusion from Plaintiff’s allegations is that a permissive culture of abuse and bad behavior was allowed to fester within these government agencies, obscured from public view.

Serano’s case ultimately settled on September 21, 2021—the very same day that the Township was dismissed from the lawsuit by this Court. *See* Dkt. Nos. 27, 28. On October 6, 2021, this Court issued an order “barr[ing] . . . public disclosure of the settlement terms between the parties and of the underlining [sic] allegations and claims brought in this matter unless pursuant to other valid legal process.” *See* Dkt. No. 29 (hereinafter “Confidentiality Order”). Upon information and belief, the Confidentiality Order was granted without a finding on the record of good cause in support of its issuance.

**b. Intervenor’s Attempts to Access the Settlement Records**

In September 2021, former *Morning Call* reporter Peter Hall filed a request to the Township pursuant to the Pennsylvania Right to Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.* for “[a]ny settlement and release ending litigation in *Serano v. Golden*, docketed at 5:21-cv-84 in the U.S. District Court for the Eastern District of Pennsylvania.” *See* Exhibit A (hereinafter “First RTKL Request”). Mr. Hall’s RTKL request was denied by the Township, a decision later affirmed by the Office of Open Records (“OOR”), the state’s administrative agency that handles RTKL appeals.

On April 11, 2021, Mr. Hall filed another RTKL request with the Township attempting to obtain the settlement agreement that ended this litigation. *See* Exhibit B (hereinafter “Second RTKL Request”). The Township denied the Second RTKL Request on May 18, 2022. *See* Exhibit C. Mr. Hall, the original requester, subsequently changed jobs and therefore, on June 2, 2022, authorized another *Morning Call* reporter, Daniel Sheehan, to substitute for him in this matter. Sheehan and *The Morning Call* then appealed the denial of the request to the OOR, which, on July 5, 2022, issued a determination again denying the request. The OOR predicated its decision on its finding that “the Township has met its burden of proof that it does not possess the records sought in the Request.” *See* Exhibit D (hereinafter “OOR Final Determination”). Critically, in denying *The Morning Call*’s appeal, the OOR failed to address the fact that Defendant Officer Golden was sued in his official capacity under 42 U.S.C. § 1983, and that the Township was dismissed as a party to the lawsuit on the same day the case settled. These facts demonstrate that the settlement agreement ultimately reached implicated a government entity and its agent acting in his official capacity, rendering the agreement a public record subject to the RTKL. 65 P.S. §§ 67.101 *et seq.* Sheehan and *The Morning Call* have since appealed the OOR’s denial of their request to the Lehigh County Court of Common Pleas.

In the proceedings before the OOR, the Township maintained that the records “do not exist in the[ir] possession, custody and control,” because the Township was dismissed from this litigation, and they therefore cannot produce the settlement agreement to Intervenor. *See* Exhibit C. Counsel for the Township has further stated that, even if the Township did have access to the settlement agreement, it could not produce it pursuant to a valid RTKL request because of the existing Confidentiality Order in this Court. “[P]ursuant to the Court Order the Township lacks possession, custody, or control over the document due to a Court Order dismissing it as a party to

the litigation, and a subsequent Court Order preventing public disclosure of any settlement terms between the remaining parties.” *See* Exhibit E. Counsel for the Township insists that receiving a copy of the settlement agreement “would be a violation of the October 6, 2021 Court Order preventing public disclosure.” *Id.*

*The Morning Call* argued before the OOR and now on appeal in Lehigh County that settlement agreements involving a government agency—here, involving the alleged conduct of an employee of the Township in his official capacity—are public records and are accessible regardless of whether the agency has actual physical possession of the agreement. *See, e.g., Trib.-Rev. Publ’g Co. v. Westmoreland Cnty. Hous. Auth.*, 833 A.2d 112, 118 (Pa. 2003). Furthermore, Intervenor interprets this Court’s Confidentiality Order to allow disclosure pursuant to a valid RTKL request and now seeks limited intervention to confirm this interpretation.

## **ARGUMENT**

A confidentiality order cannot be maintained “where it is likely that information is accessible under a relevant freedom of information law,” lest such orders render utterly useless federal and state freedom of information laws. *See Pansy v. Borough of Stroudsburg*, 23 F.3d 772, 791 (3d Cir. 1994). Likely for this reason, the Order here plainly excludes from its scope public disclosure made “pursuant to other valid legal process.” *See* Dkt. No. 29. Indeed, “a strong presumption exists against granting or maintaining an order of confidentiality whose scope would prevent disclosure of that information pursuant to [a] relevant freedom of information law.” *Pansy*, 23 F.3d at 791. *The Morning Call* therefore moves to intervene for the limited purpose of seeking an order vacating or modifying the Confidentiality Order to declare

unequivocally that a state judicial order granting access to settlement terms via a RTKL request constitutes valid legal process.

This Court should grant *The Morning Call*'s limited motion to intervene and vacate or modify the Confidentiality Order for the following reasons: **First**, *The Morning Call* has standing to intervene in this proceeding for the limited purpose of requesting that the Confidentiality Order be vacated or modified because the Confidentiality Order in question obstructs its attempt to obtain access to the settlement agreement via the RTKL. **Second**, the settlement agreement is a public record subject to the Pennsylvania Right to Know Law, and the law of this Circuit unequivocally makes clear that confidentiality agreements and related orders cannot circumvent requirements of the state public records law. **Third**, the settlement agreement was improperly subjected to a Confidentiality Order, with no party making the requisite factual showing of good cause. Indeed, as demonstrated below, no party can make such a showing in this case. Therefore, *The Morning Call*'s motion to intervene and vacate or modify the Confidentiality Order should be granted.

**I. *The Morning Call* has standing to intervene for the limited purpose of seeking an order vacating or modifying the Confidentiality Order.**

*The Morning Call* seeks limited intervention in this proceeding to vindicate the public interest in governmental transparency underpinning Pennsylvania's RTKL. Third parties have standing in the Third Circuit to intervene and challenge improper confidentiality orders that "interfere[] with their attempt to obtain access . . . pursuant to the Pennsylvania Right to Know [Law]." *See Pansy*, 23 F.3d at 777. And, intervention for the limited purpose of vacating or modifying an existing confidentiality order is permitted "even after the underlying dispute between the parties has long been settled." *See id.* at 779 (quoting *Leucadia, Inc. v. Applied Extrusion Techs., Inc.*, 998 F.2d 157, 161 n.5 (3d Cir. 1993)). Accordingly, *The Morning Call*

has standing to intervene for the limited purpose of seeking that the improvidently granted Confidentiality Order be vacated or modified.

In *Pansy*, the Third Circuit considered a motion for intervention in a fact pattern almost identical to this one. Plaintiff Pansy had filed suit under 42 U.S.C. § 1983 against the Borough of Stroudsburg. *Id.* at 776. Several newspapers moved to intervene for the purpose of modifying or vacating a confidentiality order that controlled the parties’ settlement agreement, which the newspapers were hoping to obtain. *Pansy*, 23 F.3d at 784. If the newspapers were successful in intervening and in vacating or modifying the confidentiality order, they could then “seek access to the Settlement Agreement under the Pennsylvania Right to Know Act<sup>3</sup> without interference by the federal court Order of Confidentiality.” *Id.* (internal citations omitted). In fact, exactly as here, the newspapers in *Pansy* had “already commenced a suit in Pennsylvania state court, seeking the Settlement Agreement as a ‘public record’ under the Pennsylvania Right to Know Act,” before filing their motion to intervene in federal court. *Id.* Because a state court considering a Right to Know request would be compelled to respect an existing federal court confidentiality order, the newspapers’ interest in vacating the order was clear and they were granted intervention. *Id.*

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<sup>3</sup> In 2008, Pennsylvania’s current Right-to-Know Law (RTKL) was signed into law, replacing the Right-to-Know Act with more expansive disclosure requirements. The new law also created the Office of Open Records and reversed the burden of proof, requiring that agencies prove by a preponderance of the evidence that records are not subject to public access. *See generally* J. Chadwick Schnee, *The Right-to-Know Law: A Practice Guide* (PBI Press 3d ed. 2022). The definition of a “financial record,” for example, includes even those records that are not financial on their face. *See id.* at 14. The Pennsylvania Supreme Court has deemed public employee service histories as public financial records because they are “account[s], voucher[s] or contract[s]” involving the receipt or disbursement of public funds. *See Pa. State Univ. v. State Emps.’ Ret. Bd.*, 935 A.2d 530, 534–35 (Pa. 2007).

The same is true here. *The Morning Call* is separately litigating a Right to Know request for the *Serano v. Golden* settlement agreement in Lehigh County state court and opposing counsel for the Township intends to argue—in addition to not being in possession of the document—that this Court’s Confidentiality Order bars any disclosure whatsoever, even pursuant to a valid RTKL request. This position is unsupported by the law of this Circuit. If *The Morning Call* obtains a state judicial order granting access to the settlement agreement pursuant to Pennsylvania’s Right to Know Law, Intervenor seeks to ensure the Township cannot invoke an Order of this Court as a reason for noncompliance. As such, *The Morning Call* has a clear interest in either vacating or modifying the Confidentiality Order to make unambiguous that a judicial order pursuant to a state RTKL constitutes valid legal process, lifting the bar on disclosure of the settlement agreement in this case.

**II. The settlement agreement is a public record subject to the Pennsylvania Right to Know Law.**

Settlement agreements involving a government agency are public records and are accessible under Pennsylvania’s Right to Know Law regardless of whether the agency has actual physical possession of the agreement. *See, e.g., Trib.-Rev. Publ’g Co.*, 833 A.2d at 118; *Newspaper Holdings, Inc. v. New Castle Area Sch. Dist.*, 911 A.2d 644, 649 n.11 (Pa. Commw. Ct. 2006) (“[A] school district may not contract away the public’s right of access to public records . . . .”). Because Officer Golden was sued in his official capacity and, at all times relevant to the lawsuit, was acting in an official capacity as an employee of the Township, the settlement agreement is subject to the RTKL regardless of whether the Township remained a named defendant in the case. *Id.*; *see also Barkeyville Borough v. Stearns*, 35 A.3d 91 (Pa. Commw. Ct. 2012) (holding that Borough Council members’ emails were public records,

notwithstanding the use of personal accounts, because the members were acting in their official capacity and engaged in government activity while exchanging the emails in question).

**III. The settlement agreement was improperly subjected to a Confidentiality Order, with no party making the requisite factual showing of good cause.**

Parties wishing to obtain a confidentiality order over settlement agreements must demonstrate that “good cause” exists for such an order. *Pansy*, 23 F.3d at 786. “Good cause is established on a showing that disclosure will work a clearly defined and serious injury to the party seeking closure.” *Publiker Indus., Inc. v. Cohen*, 733 F.2d 1059, 1071 (3d Cir. 1984). “The injury must be shown with specificity.” *Id.* “Broad allegations of harm, unsubstantiated by specific examples or articulated reasoning,” are insufficient to demonstrate good cause. *Cipollone v. Liggett Grp., Inc.*, 785 F.2d 1108, 1121 (3d Cir. 1986). Courts must then engage in a balancing test to determine whether the asserted interest in privacy overcomes “the public’s right to obtain information concerning judicial proceedings.” *Pansy*, 23 F.3d at 786. A court’s findings must be articulated on the record. *Id.* at 789.

The balancing test must consider the following factors: privacy interests; whether the information is being sought for a legitimate or improper purpose; whether disclosure would cause a party embarrassment; whether the information is important to public health and safety; if the sharing of information among litigants would promote fairness and efficiency; whether a party benefitting from the confidentiality order is a public entity or official; whether the case involves issues important to the public (*i.e.*, involves issues or parties of a public nature, and involves matters of legitimate public concern); and the interest in encouraging settlement (requiring a particularized showing of the need for confidentiality in reaching a settlement). *See In re Avandia Mktg., Sales Pracs. & Prods. Liab. Litig.*, 924 F.3d 662 (3d Cir. 2019) (citing *Pansy*, 23 F.3d at 787–88). The interest in privacy, however, is “diminished when the party

seeking protection is a public person subject to legitimate public scrutiny.” *Pansy*, 23 F.3d at 787. The interest in encouraging settlement also need not be heavily weighted, as settlements are often entered into with or without confidentiality orders. Parties may of course prefer confidentiality but would likely still settle even absent confidentiality, as going to trial would entail even greater disclosures than would granting the public access to a settlement agreement. *Id.* at 788. When considering whether to modify an *existing* confidentiality order, the parties’ reliance on the order is an additional factor to balance. *Id.* at 790.

Perhaps most importantly, “where it is likely that information is accessible under a relevant freedom of information law, a strong presumption exists against granting or maintaining an order of confidentiality whose scope would prevent disclosure of that information pursuant to the relevant freedom of information law. In the good cause balancing test, *this strong presumption* tilts the scales heavily against entering or maintaining an order of confidentiality.” *Id.* at 791 (emphasis added). In such circumstances, a court may choose to enter a conditional order that would, *e.g.*, become inoperative upon the determination that the confidential information is available under a freedom of information law, or one whose “scope . . . does not extend so as to prevent disclosure pursuant to any freedom of information law.” *Id.* This strong presumption “strikes the appropriate balance by recognizing the enduring beliefs underlying freedom of information laws: that an informed public is desirable, that access to information prevents governmental abuse and helps secure freedom, and that, ultimately, government must answer to its citizens.” *Id.* at 792.

Upon information and belief, the Court did not elicit on-the-record testimony from either party or make factual findings establishing good cause for entry of the Confidentiality Order. Neither party put forth any evidence in support of confidentiality, nor did they make any

showing that confidentiality outweighed the strong public interest in access to open court proceedings and public records.<sup>4</sup> Based upon the publicly available information, the parties certainly did not meet the “good cause” standard to support confidentiality. The Confidentiality Order was entered “at the request of the settling parties,” but ostensibly without any consideration of whether the privacy interests at issue predominated over the notable public interest in learning the terms of an agreement to settle shocking claims of sexual assault by a law enforcement officer. *See* Dkt. No. 29. The Confidentiality Order provides no further details as to why the settlement agreement merited confidentiality. *See id.* Far from articulating specific findings, the Order contains no discussion whatsoever of the considerations that influenced the entry of the Confidentiality Order or the need to keep the settlement confidential. Relatedly, there was also no discussion as to why the parties agreed to dismiss the Township with prejudice on September 21, 2021, despite the magistrate judge’s clear involvement in approving this decision. *See* Dkt. No. 27. Any judicial involvement in such a decision—particularly here, where dismissal was likely secured in exchange for concessions reflected in the settlement agreement—is a judicial record subject to the common law right of public access, further compelling an explanation for why confidentiality was necessary. *See Enprotech Corp. v. Renda*, 983 F.2d 17, 20–21 (3d Cir. 1993) (citing *Bank of Am. Nat’l Tr. & Sav. Ass’n v. Hotel*

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<sup>4</sup> The docket reflects three judicial minute entries, respectively at Dkt. Nos. 22, 25, 26, that are not available through the public-facing ECF system. Undersigned counsel cannot therefore determine what these minute entries contain. To the extent these minute entries reflect discussions between the parties and the Court regarding the settlement terms, or the Court’s consideration of the settlement terms, the minute entries may themselves constitute judicial records subject to the common law right of access. *See Jackson v. Del. River & Bay Auth.*, 224 F. Supp. 2d 834, 839 (D.N.J. 2002) (finding that a transcript of the settlement hearing in which the parties stated their understanding of the agreement was a judicial record subject to public access). If these minute entries reflect the good cause showing and assessment, they must be made publicly accessible on the record.

*Rittenhouse Assocs.*, 800 F.2d 339, 344 (3d Cir. 1986)) (holding that the court’s approval of a settlement or action on a motion are matters which the public has the right to know about and evaluate pursuant to the common law right of access to judicial records doctrine).

Had the Court performed a balancing test as required by law, it would have found that disclosure is clearly favored in this case. The privacy interests are arguably minimal, as the (concededly sensitive) facts of the case have already been disclosed, both in the pleadings and through news coverage.<sup>5</sup> Any embarrassment to the parties has likely already occurred, given the existence of the lawsuit and the claims at issue have already been publicly reported.<sup>6</sup> The parties benefitting from confidentiality—South Whitehall Township and Officer Golden—are a public entity and official. The settlement agreement is being sought for a legitimate purpose—it is vitally important to the press and the public to be able to access records that shine a light on law enforcement operations and misconduct, as well as records that illustrate the public funding expended to settle such claims. The information is plainly important to public health and safety, as it involves police misconduct toward a vulnerable civilian while the Officer was acting in his official capacity.

The existence of a possible reliance interest “depend[s] on the extent to which the order induced the party to allow discovery or to settle the case. . . . Reliance will be less with a blanket order, because it is by nature overinclusive.” *Pansy*, 23 F.3d at 790 (citation omitted). The Confidentiality Order here would appear comprehensive or “blanket” if construed to exclude information otherwise obtainable via a freedom of information law like Pennsylvania’s RTKL.

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<sup>5</sup> Peter Hall, *Federal lawsuit accuses former South Whitehall police officer of raping intoxicated woman*, The Morning Call (Jan. 11, 2021), <https://www.mcall.com/news/police/mc-ews-former-south-whitehall-police-sexual-assault-20210111-gulmeukq7vcdbm3qczomcejhka-story.html>.

<sup>6</sup> See *supra* note 5.

The parties here therefore cannot maintain reliance on such an overinclusive order. Furthermore, any interest in encouraging settlement—*i.e.*, the idea that confidentiality was necessary to secure an agreement between the parties—is also likely low. The reasons cited by the Third Circuit in *Pansy* apply with equal force here, as any preference for confidentiality would be better served by a publicly accessible settlement agreement than by going to trial. In other words, even without a confidentiality order, any party interested in secrecy would likely still have preferred to settle, knowing the settlement agreement would be publicly available, than endure the extensive disclosures a trial would entail. *See Pansy*, 23 F.3d at 788.

### CONCLUSION

The settlement in the instant case involves a Township agent acting in his official capacity and implicates possible misconduct by the Township itself in “condon[ing], if not encourag[ing],” sexual harassment by South Whitehall police. *See* Dkt. No. 1, ¶ 46. The settlement agreement is therefore a matter of significant public concern. The current Confidentiality Order has enabled the Township to keep the settlement agreement out of public view for more than a year. The public therefore remains in the dark about how the Township sought to resolve the case out of court and whether the Township has taken any steps to remedy its “culture of abuse.”<sup>7</sup> What is more, confidentiality was ordered without any ostensible showing of a good cause basis and without any findings of fact made on the record. Confidentiality has been an undeserved boon to the Township and Officer Golden, shielding them from public accountability. *The Morning Call* therefore respectfully seeks permission to intervene to vindicate the public interest underlying Pennsylvania’s RTKL and the stated law of this circuit.

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<sup>7</sup> *See supra* note 5.

For the foregoing reasons, *The Morning Call* requests permission to intervene for the limited purpose of vacating or modifying the Confidentiality Order in Dkt. No. 29. Should this Court decline to vacate or modify its Confidentiality Order, *The Morning Call* requests that the Court make findings on the record explaining why the Confidentiality Order meets the good cause standard required for closure.

Date: December 9, 2022

Respectfully submitted,

By: /s/ Paula Knudsen Burke

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**CERTIFICATE OF SERVICE**

I, Paula Knudsen Burke, hereby certify that I have served a copy of the foregoing Motion to Intervene and Amend Order and Memorandum of Law in Support thereof upon the following counsel via the Electronic Case Filing System of the U.S. District Court for the Eastern District of Pennsylvania, on the date indicated below:

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I have served a copy of the foregoing Motion to Intervene and Amend Order and Memorandum of Law in Support thereof upon the following counsel via email:

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By: /s/ Paula Knudsen Burke

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