

<p>DISTRICT COURT, OURAY COUNTY, COLORADO</p> <p>Court Address: 541 4TH St. P.O. Box 643 Ouray County, CO 81427</p> <hr/> <p>Plaintiff: A.C.</p> <p>v.</p> <p>Defendant: Jeff Wood</p> <hr/> <p><i>Attorney for proposed intervenor, Ouray County Plaindealer:</i> Rachael Johnson, #43597 Reporters Committee for Freedom of the Press c/o Colorado News Collaborative 2101 Arapahoe Street Denver, CO 80205 Telephone: (970) 486-1085 rjohnson@rcfp.org</p>	<p>DATE FILED August 4, 2025 2:08 PM FILING ID: 66E83DC1EBD1D CASE NUMBER: 2025CV30009</p> <hr/> <p>COURT USE ONLY</p> <hr/> <p>Case Numbers: 2025CV030009</p> <p>Division: 4</p>
<p align="center">MOTION TO INTERVENE FOR THE LIMITED PURPOSE OF SEEKING TO VACATE ORDER SUPPRESSING ENTIRE COURT FILE</p>	

The Ouray County Plaindealer (or “Plaindealer”), by and through its undersigned counsel, hereby respectfully moves this Court for leave to intervene herein for the limited purpose of exercising its rights as a member of the public to have the Court vacate its order suppressing the entire case file herein. As its grounds for relief, the Movant states as follows:

DUTY OF CONFERRAL

Pursuant to C.R.C.P. 121§ 1-15(8), counsel for the Plaindealer contacted counsel for the Plaintiff and Defendant in this matter on two separate occasions (on July 24, 2025 and July 30, 2025); however, neither counsel responded to any attempts to confer. Thus, their position on this motion is not stated because it is unclear.

INTRODUCTION

This matter is being litigated in a District Court of the Colorado Judicial Department, under the auspices of C.R.C.P. 122. According to ICCES, the entire case file—all filings by the parties and all orders entered by the Court—are currently unavailable to the public, as the *entire* case file is “Suppressed.” See **Exhibit A**. Pursuant to an Order of the Court, which is not available for public inspection, it is impossible for the public to see any documents’ titles or contents of the captioned case file.

Colorado law establishes that in *all* civil cases, the public is entitled to inspect all records on file with the Court, including the Register of Actions (docket sheets), unless and until a judicial finding has been made that “the harm to the privacy of a person in interest outweighs the public interest” in accessing judicial records. C.R.C.P. 121(c) § 1-5(2); *see also In re Marriage of Purcell*, 879 P.2d 468, 469 (Colo. App. 1994) (holding that the presumption of public access applies to civil cases and affirming a trial court’s denial of parties’ joint motions to suppress their financial affidavits or separation agreement, among other court filings).

As a member of the public currently being denied its presumptive right of access to judicial records by Order of this Court, the Ouray County Plaindealer, a news organization, has a concrete and protected interest, recognized in the Rules of Civil Procedure, that provides it standing to be heard herein. C.R.C.P. 121(c) § 1-5(4).

I. THE OURAY COUNTY PLAIND DEALER IS ENTITLED TO INTERVENE FOR THE LIMITED PURPOSE OF ASSERTING ITS *OWN* RIGHT OF ACCESS TO JUDICIAL RECORDS

Orders that restrict or preclude the public from accessing any portion of judicial records are to be entered exclusively in compliance with C.R.C.P. 121 (c) § 1-5(2). *See Anderson v. Home Ins. Co.*, 924 P.2d 1123, 1126-27 (Colo. App. 1996) (holding that the standard for

suppression set forth in that rule is “the only criterion the court could properly consider”¹. Notably, that same rule declares, unambiguously, that “[u]pon notice to all parties of record, and after hearing, an order limiting access may be reviewed by the court at any time on its own motion or *upon the motion of any person.*” (emphasis added). *Id.* § 1-5(4). Accordingly, it is clear that “any person,” including the Ouray County Plaindealer, is entitled, as of right, to file a motion asking the Court to review its Order limiting access. And, members of the public have standing to assert their right to access to court records. *See Times-Call Publ'g Co. v. Wingfield*, 410 P.2d 511, 511 (Colo. 1966) (granting writ of mandamus upon application of newspaper asserting its right of “access to and right of inspection of all the pleadings and other records contained in the court file”).

Accordingly, the Plaindealer is entitled to intervene, as of right, to assert its rights under the common law and pursuant to C.R.C.P. 121(c) § 1-5(4).

II. THE COURT SHOULD VACATE ITS ORDER SUPPRESSING THE ENTIRETY OF THE COURT FILE IN THIS CASE

Under Colorado’s common law, and its Rules of Civil Procedure, all members of the public enjoy a presumptive right to inspect and copy judicial records on file in the courts of this state. *See* C.R.C.P. 121(c) § 1-5; *Anderson v. Home Ins. Co.*, 924 P.2d 1123, 1126 (Colo. App. 1996) (“the rule creates a presumption that all court records are to be open”).

¹ Although Statewide Practice Standard section 1-5 remains in place, subsequently, in 2005, the Chief Justice issued a directive governing public access to court records. *See* CJD 05-01. Its current incarnation is available at https://www.coloradojudicial.gov/sites/default/files/2025-02/CJD05-01_AccesstoCourtRecords_AmendedEffective_March32025_WEB%20A11Y_0_0.pdf Under section 4.10 of that Directive, “Information in the court record is accessible to the public except as prohibited by Section 4.60,” and Negligence cases are *not* among the classes of cases designated as “prohibited” under section 4.60(b).

Under the rules, that right can be overcome only upon a judicial finding that “the harm to the privacy of a person [that would result from public disclosure] outweighs the public interest.” C.R.C.P. 121(c) § 1-5(2); *see also Doe v. Heitler*, 26 P.3d 539, 544 (Colo. App. 2001) (“A claim that a court file contains extremely personal, private, and confidential matters is generally insufficient to constitute a privacy interest warranting the sealing of the file.”) (citation omitted).

In addition, in matters such as this one, C.R.C.P. 122(f) provides that “[p]roceedings before an Appointed Judge shall be conducted pursuant to Rules applicable to the originating court. ***All filings shall be open records available for public review and inspection unless sealed upon motion and order . . .***” (emphasis added). This provision clearly does not contemplate the sealing or suppression of *the entire court file*; only discreet portions of individual documents may be suppressed, and only in compliance with Rule 121(c) § 1-5(2), which is “applicable to the originating court.”² Not only has the Colorado Court of Appeals previously rejected a request *by both parties* to a civil case to suppress records on file (*see In re Marriage of Purcell*, 879 P.2d at 469), that Court also declared that “[g]enerally, under the common law, a heightened expectation of privacy or confidentiality in court records has been found to exist *only* in those limited instances in which an *accusation of sexual assault* has been made, or in which *trade secrets*, potentially defamatory material, or *threats to national security* may be implicated.” *Anderson*, 924 P.2d at 1127. In this case, a negligence case was brought with respect to a sexual assault that allegedly occurred at the home of defendant Jeff Wood; but Wood, the former police chief in Ouray County, was not charged with

² In light of the recent press attention and public discussion of the conduct of civil cases conducted pursuant to C.R.C.P. 122(f), *see D. Migoya, Colorado’s Private, Often Secret Justice System Exclusively for the Wealthy, Denver Gazette* (Mar. 30, 2025), the public interest in being able to monitor the filings in the present case is particularly heightened, thereby adding considerable weight to that side of the Court’s required balancing.

any crime. Nevertheless, the details of those accusations have already been extensively reported on in the press—including details about the alleged assault in Wood’s home. The arrest affidavit of the alleged rape that occurred at Wood’s home is publicly available, *see Exhibit B*, and has been reported on by news organizations.³ Thus, the details of the assault and the alleged involvement of Mr. Wood, who was not criminally charged, are public knowledge. For example, referring to Wood, the affidavit states that “the parents were at the residence where the assault occurred” and “[the victim] did not want to disclose the location of the event or who was involved” because the victim was “concerned nobody would believe [her].” **Exhibit B at 1-2.** And, the affidavit recounts the victim’s, A.C., story of the horrific assault. It is well established that any potential privacy interests in sealing information from the public is defeated where the information becomes widely known or publicly accessible. *See People v. Bryant*, 94 P.3d 624, 642 (Colo. 2004) (finding that “the damage to the alleged victim's privacy interests has already been done in this case” when the details of victim’s sex life were publicly reported on after inadvertent disclosure by the court; “cat is out of the bag”). Accordingly, once the information is revealed to the public, it diminishes or even extinguishes an individual's reasonable expectation of privacy regarding that specific information. *Id.* At 643. (“Privacy interests fade once they are a matter of public record.”). And, given the media attention to this case, it cannot be said that Mr. Wood’s privacy interests outweigh the great public interest in this case.

³ *See Ouray police chief fired*, Ouray County Plaindealer, Erin McIntyre and Mike Wiggins, June 24, 2024, <https://perma.cc/HP6K-BNWT> (last visited July 17, 2024); *Girl: Rapes occurred at chief's house*, Ouray County Plaindealer, Erin McIntyre, January 17, 2024, (citing to affidavit) <https://perma.cc/3PC8-S7WT> (last visited July 17, 2024); *Colorado police chief on administrative leave amid allegations against stepson*, CBS News, Gabriela Vidal, Jan. 19, 2024, <https://perma.cc/9WSG-TYYZ> (last visited July 17, 2024); *Ouray police chief placed on leave following allegations of 17-year-old girl’s rape at his house while he slept*, January 29, 2024, Katie Langford, *The Denver Post*, <https://perma.cc/8RXG-T372> (last visited July 17, 2024).

Moreover, with respect to “potentially defamatory material,” that Court clarified that “prospective injury to reputation, an inherent risk in almost every civil lawsuit, is generally insufficient to overcome a strong presumption in favor of public access to court records.” *Id.* Lastly, § 13-1-119, C.R.S. (2025) mandates, unequivocally, that “[t]he judgment record and register of actions shall be open at all times during office hours for the inspection of the public without charge” (emphasis added).

Accordingly, there is no basis in the law for depriving the public of access to (1) the Register of Actions (docket sheets), (2) the Court’s Order seals the entire case file, or (3) the entirety of the contents of all pleadings, motions, orders, exhibits, declarations, etc. on file in this Court. This Court should unseal these documents as quickly as possible, since the public’s right to access judicial records is a right of *contemporaneous* access. *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 126-27 (2nd Cir. 2006) (“Our public access cases and those in other circuits emphasize the importance of *immediate* access when a right to access is found.” (emphasis added) (citations omitted)); *Grove Fresh Distribs. v. Everfresh Juice Co.*, 24 F.3d 893, 897 (7th Cir. 1994) (noting that access to court documents “should be immediate and contemporaneous”); *Daily Press, Inc. v. Virginia*, 739 S.E.2d 636, 640 (Va. 2013) (“to work effectively, public access must be contemporaneous – the public must be able to scrutinize the judicial process as it takes place [The press provides] immediate descriptions of events as they unfold. To delay or postpone disclosure undermines the benefits of public scrutiny and may have the same result as complete suppression.”).

CONCLUSION

For the reasons set forth above, The Ouray County Plaindealer respectfully asks that the Court grant its motion, and (1) allow it to intervene herein, as of right under C.R.C.P. 121 (c) § 1-

5(4), for the limited purpose of seeking to vacate the Court's order suppressing the entirety of the case file, and (2) forthwith vacate the Order that unlawfully precludes the public from accessing the judicial records on file herein.

Respectfully submitted this 4th day of August 2025.

By /s/Rachael Johnson

Rachael Johnson
Reporters Committee for Freedom of the Press
Attorney for Proposed Intervenor, Ouray County
Plaindealer

CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of August, 2025, a true and correct copy of the foregoing **MOTION TO INTERVENE FOR THE LIMITED PURPOSE OF SEEKING TO VACATE ORDER SUPPRESSING ENTIRE COURT FILE** was served on counsel of record via the ICCES e-filing system.

s/ Rachael Johnson
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