

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

CA FLORIDA HOLDINGS, LLC,
Publisher of *THE PALM BEACH POST*,

Plaintiff,

Case No.: 50-2019-CA-014681-XXXX-MB

Division: AG

v.

DAVE ARONBERG, as State Attorney of
Palm Beach County, Florida; SHARON R.
BOCK, as Clerk and Comptroller of Palm
Beach County, Florida,

Defendants.

**DEFENDANT, CLERK AND COMPTROLLER OF PALM BEACH
COUNTY'S, RESPONSE TO PLAINTIFF'S MOTION TO
SCHEDULE A ONE HOUR HEARING
FOR ITS MOTION FOR SUMMARY JUDGMENT**

Defendant, Joseph Abruzzo, as Clerk and Comptroller of Palm Beach County, Florida ("Clerk Abruzzo"), by counsel, responds to Plaintiff, CA Florida Holdings, LLC, publisher of the *Palm Beach Post's* ("PBP"), Motion to Schedule a One Hour Hearing for Its Motion for Summary Judgment, and states as follows:

1. On January 5, 2021, Clerk Abruzzo was sworn into office as Palm Beach County's Clerk and Comptroller. As PBP is aware, Clerk Abruzzo recently began the process of retaining litigation counsel in this matter and anticipated cooperating to schedule the hearing PBP is requesting as soon as that process was completed.
2. Clerk Abruzzo inherited this case because his office is charged with the ministerial duty of being the custodian of the grand jury records PBP seeks to obtain.
3. In the performance of that duty, Clerk Abruzzo's allegiance is necessarily to the Constitution and laws he swore to uphold.

4. Irrespective of any desire he may have to release the materials PBP seeks, Clerk Abruzzo is bound by law to maintain the secrecy of any grand jury proceedings and records unless and until the Court orders their release. *See* § 905.17(1), *Fla. Stat.* (“The stenographic records, notes, and transcriptions made by the court reporter or stenographer shall be filed with the clerk who shall keep them in a sealed container not subject to public inspection. The notes, records, and transcriptions are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. 1 of the State Constitution and shall be released by the clerk only on request by a grand jury for use by the grand jury or on order of the court pursuant to s. 905.27.”)

5. Florida’s legislature emphasized the importance of the Clerk’s confidentiality obligations by making it “unlawful” and “criminal contempt of court” to “disclose, divulge, or communicate to any other person...in any manner whatsoever, any testimony of a witness examined before the grand jury, or the content, gist, or import thereof...” *See* § 905.27, *Fla. Stat.*

6. Regardless of public and personal sentiment toward the subject of the grand jury proceedings for which disclosure is sought, Clerk Abruzzo has no discretion to decide whether the records PBP seeks can be released. *Pan Am. World Airways, Inc. v. Gregory*, 96 So.2d 669, 671 (Fla. 3d DCA 1957); *Ferlita v. State*, 380 So.2d 1118, 1119 (Fla. 2d DCA 1980); *Overholser v. Overstreet*, 383 So.2d 953, 954 (Fla. 3d DCA 1980).

7. Unless and until ordered to do otherwise, Clerk Abruzzo is required by law to maintain the secrecy of all grand jury proceedings and records.

8. Be that as it may, Clerk Abruzzo is eager to bring this matter to a close and has no objection to PBP’s request to schedule its motion for summary judgment for a one-hour hearing at the Court’s earliest convenience, and on a day and time mutually convenient to the parties and their counsel.

/s/ Kenneth G. Turkel

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*Attorneys for Defendant, Joseph Abruzzo, as Clerk
and Comptroller of Palm Beach County, Florida*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of May, 2021, I caused a true and correct copy of the foregoing to be served via the Florida Court's E-Filing Portal upon the following counsel of record:

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