

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

CIRCUIT CIVIL DIVISION: AG
CASE NO.: 50-2019-CA-014681-XXXX-MB

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

Plaintiff,

v.

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

Defendants.

CLERK OF THE CIRCUIT COURT & COMPTROLLER'S
MOTION TO AMEND FINAL JUDGMENT

Defendant, Joseph Abruzzo, in his official capacity as Clerk of the Circuit Court and Comptroller, Palm Beach County ("Clerk"), by and through undersigned counsel and pursuant to Florida Rule of Civil Procedure 1.530(g), hereby moves to amend the Final Judgment [DE 78] with respect to the reference that the Clerk "zealously advocated the position against disclosure of the grand jury records based upon grand jury secrecy and confidentiality" and in support thereof states:

1. Florida Rule of Civil Procedure 1.530(g) permits a party to file a motion to amend a final judgment within fifteen (15) days from the issuance of the judgment. *Soldatich v. Jones*, 290 So. 3d 497, 500 (Fla. 4th DCA 2020) ("A motion to alter or amend the judgment shall be served not later than 15 days after entry of the judgment...") (citing Fla. R. Civ. P. 2.530(g)); *see also PLCA Condo. Ass'n v. AmTrust-NP SFR Venture, LLC*, 182 So. 3d 668, 670 (Fla. 4th DCA

2015) (same); *Commonwealth Land Title Ins. Co. v. Freeman*, 884 So. 2d 164, 168 (Fla. 2d DCA 2004) (“As a result, the Trustees’ time for filing the motion pursuant to rule 1.530(g) ran from the date of original final judgment.”). The Final Judgment was entered on December 20, 2021, and this motion is therefore timely filed.

2. The Clerk seeks to amend the Final Judgment - specifically page 3 – to reflect that the arguments made, and the defenses taken, were not done to shield the release of the grand jury materials but rather to ensure that (1) the law was followed with regard to the procedure used to seek such records and that (2) any confidential record(s) be released upon order of the court.

3. As the Court noted in the Final Judgment, the Clerk’s position is that he is “merely the custodian of the Materials and as such he has no real interest in the issues before the court as identified.” *Final Judgment* [DE 78], p. 3. The Court further stated that the “clerk’s role in this proceeding has been complicated, or expanded, because the Newspaper filed this action as a civil declaratory judgement action and has moved for a motion for summary judgment under Rule of Civil Procedure 1.510” rather than filing a motion under Rule of General Practice and Judicial Administration 2.420(j). *See id.*

4. The Clerk has continuously maintained, notwithstanding his personal belief that in this particular case the grand jury records should be released, that under Rule of General Practice and Procedure 2.420 and Florida law, that he is required to maintain the confidentiality of grand jury records absent a court order. *See, e.g.*, Clerk’s Response to Plaintiff’s Motion for Summary Judgment [DE 75], p. 2 (“Several statutes enforceable through criminal penalties...forbid clerks of Florida’s circuit courts from releasing grand jury materials except...on order of the court pursuant to s. 905.27.”) (internal quotes omitted).

5. As was stated in the Order, “[t]he clerk’s role in this proceeding has been complicated, or expanded, because the Newspaper filed this action as a civil declaratory judgment action and has moved for summary judgment ... [while] the proper procedure for obtaining disclosure of confidential court records is set forth in Florida Rule of General Practice and Judicial administration 2.420(j), which only requires the filing of a ‘motion’ seeking disclosure”. *See* Final Judgment [DE 78], p. 3. Because the Clerk was forced to take on a more complicated and “expanded” role, the office had to retain counsel to defend this action. By allowing a seeker of grand jury records to file a lawsuit against a clerk, rather than simply filing a motion under Rule 2.420(j), a clerk would be required to expend funds defending matters to which he or she has no real interest. Allowing such a tactic could expose a clerk to – and what was referred to at the hearing as - a floodgate of unnecessary litigation at public expense. Thus, it was necessary for the Clerk to advocate for the proper procedure to be followed when confidential records in the possession of a clerk are sought.

6. Clerk Abruzzo agrees with the Plaintiff to the extent that releasing the records would be of public interest and would further justice especially because the records were previously released to the United States Government prior to him taking office in January 2021. *See id.* at p. 4, n.3. Any position that could be perceived to be against the release, however, was simply due to the constraints of a clerk’s role as the custodian of the materials and the existing confidentiality requirements of the Rules of General Practice and Judicial Administration as well as Florida law.

7. Based upon the above, the Clerk seeks to have page three of the Final Judgment amended for the narrow purpose of clarifying that the Clerk did not advocate against disclosure of the grand jury records, but that he was merely without authority to release the records absent a

court order. To have the Final Judgment include language that implies that the Clerk was zealously advocating against the release of records – rather than simply that he was required to maintain the confidentiality absent a court order – would be a mischaracterization of his position.

WHEREFORE, based upon the foregoing, Joseph Abruzzo, in his official capacity as Clerk of the Circuit Court and Comptroller, Palm Beach County, respectfully moves this Court to amend page three of the Final Judgment to reflect that the Clerk advocated that a court order would be necessary to release the confidential records under Rule of General Practice and Judicial Administration 2.420.

Dated: January 3, 2022

Respectfully submitted,

CLERK OF THE CIRCUIT COURT &
COMPTROLLER, PALM BACH COUNTY

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CERTIFICATE OF SERVICE

I hereby certify that on January 3, 2022 the foregoing document was furnished upon the following via the Florida ePortal System:

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