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**In re: Inquiry into Sealed Court Records**

**SC06-2136**

THE NEXT CASE ON THE  
CALENDAR THIS MORNING  
CONCERNS AMENDMENTS TO THE  
RULE OF JUDICIAL  
ADMINISTRATION, COURT  
RECORDS AND DOCUMENTS.  
I THINK PROBABLY THE WAY WE  
WILL PROCEED TO GIVE THE  
OPPORTUNITY TO ALL OF THE  
INDIVIDUALS TO MAKE THE  
PRESENTATION SEEM TO WORK  
BEST DURING OUR LAST ORAL  
ARGUMENT WHETHER -- RATHER  
THAN INTERRUPTING AS WE GO  
ALONG.

WE WILL ADDRESS THE  
QUESTIONS AT THE END OF THAT  
PRESENTATION PERIOD.

THAT WILL GIVEN A  
OPPORTUNITY TO ASK ANY  
QUESTIONS THAT YOU WANT.  
WE HAVE ONLY FIVE MINUTES  
PER PERSON.

AND WE WILL STICK TO THAT  
STRICTLY.

AND THEN THE QUESTION WILL  
COME OUTSIDE OF THAT.

SO IF YOU WOULD LIKE TO  
PROCEED MR. DIMOND, YOU WILL  
START.

>> MAY IT PLEASE THE COURT  
I'M SCOTT DIMOND.

I HAVE THE PLEASURE OF ERPT  
THE JUDICIAL AT MINUTE  
STRAEUGS COMMITTEE WITH THE  
ARGUMENT FOR PROPOSED 2.240.

LET ME CLARIFY THE FIVE  
MINUTE ON THE QUESTION WAS  
AS TO HOW THOSE RESPOND  
IMAGE.

YOU ONLY HAVE FIVE MINUTES.  
WE'LL HAVE QUESTIONS ANY  
DIRECTED TO YOU AS REGARDS.

>> MY PROPOSAL THIS MORNING

IS TO PROVIDE AN OVERVIEW OF  
OUR RESPONSE TO THOSE  
COMMENTS.

SAVE A LITTLE BIT OF TIME IN  
REBUTTAL TO ADDRESS THE  
CONCERNS.

THE CHAIRMAN ASKED ME TO  
SUBMIT THE PROPOSAL THIS  
MORNING.

I THOUGHT I HAD THE MOST  
KNOWLEDGE ABOUT THE SUBJECT  
AND WOULD THEREFORE MAKE THE  
PRESENTATION.

I WILL SPEND A MOMENT WITH  
THE COURT'S PERMISSION  
GIVING AN OVERVIEW OF THE  
RULE AND UNDERSTAND HOW THE  
STRUCTURE WORK AND RESPOND  
TO INDIVIDUAL COMMENTS.

I THINK THAT WILL BE HELPFUL  
IN UNDERSTANDING HOW THE  
COMMENTS RESPOND TO THE  
RULE.

VERY BRIEFLY, THE RULE THAT  
WITH PROPOSE IS AN EFFORT TO  
ENSURE THERE'S A PROCEDURE  
OR BY THE EXISTING  
SUBSTANTIVE RULES REGARD  
CONSTITUTIONALITY ARE THEN  
APPLIED PROPERLY IN THE  
COURTS.

AS YOU ARE AWARE THERE WAS A  
CONCERN HAS BEEN RAISED BY  
THE MEDIA WITH REGARD TO THE  
SUPERSEALING OF FILES IN  
CERTAIN CIRCUITS AROUND THE  
STATE.

THE CONCERN WAS IN EFFECT  
THE EXISTENT RULES WOULD NOT  
BE PROPERLY APPLIED.

THE COMMITTEE'S EFFORT WAS  
TO CREATE A PROCEDURE WHERE  
THERE'S CERTAINLY WITH HOW  
THE RULES SHOULD BE APPLIED.

THE ORDER THAT SEALS THE  
RECORD WOULD HAVE SOME  
DEGREE OF RELIABILITY  
BECAUSE --

>> THE COMMITTEE'S  
STANDPOINT HOW WOULD YOU  
ARTICULATE WHAT WAS  
HAPPENING ON THE GROUND.  
THAT GAVE ALL OF US THAT  
GREAT CONCERN?

IN OTHER WORDS WOULD YOU RESTATE FOR US HERE SO THAT WE HAVE REALLY A GOOD HANDLE ON THAT WHAT THE COMMITTEE PERCEIVE TO BE THE PROBLEM. THAT WAS OUT THERE THAT WE'VE HAD ALL A STRONG REACTION.

1KWR50 IN THE BROADEST SENSE THE PROBLEM THE ORDER WOULD BE ENTERED WITHOUT PROPER SCRUTINY.

NOT ONLY SEEM PARTICULAR PARTS OF THE FILE BUT SEAL THE EXISTENCE OF THE FILE THE NAME AND THE RECORD NUMBER AND LOCATOR AND WHAT THE COMMITTEES CONCERN WAS THAT PRESUMEBLY THAT WAS HAPPENING BECAUSE SOME PROCEDURAL STEPS WERE NOT OCCURRING.

THE SECOND CONCERN IS THAT CERTAIN ASPECT OF THE SEALING SHOULD NEVER HAVE HAPPENED.

IRRESPECTIVE OF PROCEDURE AN ENTIRE FILE SHOULD NEVER BE SEALED.

YOU SHOULD NEVER LOSE RECORDS OF THE EXISTING FILE. ANY SIMILAR REPORTS I'VE READ SUGGEST THAT IT WASN'T THAT THE RULES HAD A LOOPHOLES.

BUT THE CURRENT RULES WEREN'T BEING FOLLOWED.

>> IT'S CLEAR, I THINK THAT THE CURRENT SUBSTANTIVE RULES WERE NOT BEING FILED. I THINK THE SUBSTANTIVELY YOU ARE NOT SUBMIT FORD THE TILE.

BUT THERE'S NO PROCEDURE ESTABLISHED BY THE RULES FOR THE SEALING OF THE RECORDS. NOT THAT THE PROCEDURE WAS BEING VIOLATED.

THERE SIMPLY WAS NO PROCEDURE.

BY THE SAKE TOKEN THE ELIMINATION OF THE FILE COMPLETELY FROM THE DOCKET THAT WAS GOING AGAINST

SUBSTANTIVE RULES BECAUSE OF NO PROVISION IN FLORIDA LAW AND THERE'S A STRONG RULE OF LAW THAT STATES THAT YOU CANNOT PROHIBIT PUBLIC ACCESS AND OBVIOUSLY THAT'S AN IMPORTANT CONSIDERATION. TO A CERTAIN EXTENT OUR EFFORT WAS TO BALANCE THE CONCERN OF PRIVATE LITIGANT WHO SEEKS CONSTITUTIONALITY FOR A GOOD REASON WITH THE CONCERNS ABOUT PUBLIC ACCESS.

THE RULE THAT WE'VE ESTABLISHED AND INTENDED SORT OF AS A BALANCING ACT TO MAKE SURE, THAT A YOU STKROEPBT THE SUPER SEALING AT ALL WHEN YOU DO HAVE COURT ORDER THAT SEALS, A PORTION OF THE FILE THAT IT CAME OUT PROPER PROCESS AND APPLY THE LAW CORRECTLY. WE ARE REALLY TALKING -- >> WE'RE REALLY TALKING ABOUT FILES AND RECORDS THAT ARE NOT BY THEIR NATURE CONVERSATIONAL.

WE'RE TALKING ABOUT RECORDS OR PORTIONS OF RECORDS WHERE SOME PARTY FEEL A NEED TO HAVE THEM CONFIDENTIAL EVEN THOUGH NAY ARE NOT CONFIDENTIAL.

>> THAT'S RIGHT, YOUR HONOR. THERE'S A PROVISION OF THIS RULE.

WE DEAL WITH 2.240-C 9 THAT'S THE PROCEDURE WHEREBY A PARTY CAN ASK THAT SOMETHING BE DEEMED CONFIDENTIAL FOR A VARIETY OF FACTORS.

C-AND OTHER FACTORS OF THE RULE ESTABLISH CONFUSEALITY OF CERTAIN TYPES OF MATERIAL WITHOUT HAVING A PARTY ASK FOR IT.

IT'S AUTOMATIC IN EFFECT. AND WHEN WE TALK A LITTLE BIT ABOUT THE CRIMINAL ISSUES HERE, WHETHER SOME OF THESE RULES NEW TOWED BE

CHANGED TO ADDRESS THE ISSUE FOR INSTANCE OF CONFIDENTIAL INFORMANT.

ONE OF THE ARGUMENT IS THAT THE IDEA THAT'S CONFIDENTIAL SHOULD BE PROTECTED DOESN'T NEED TO COME UNDER C-9 THERE'S NO MOTION THAT NEEDS TO BE FILED.

SOME MEMBERS FELT THAT WAS AUTOMATIC BY OPERATION OF LAW FOR OTHERS ASPECTS OF THE RULE.

OUR RULE HERE TODAY THE PROPOSAL ONLY DEALS WITH THE PROCEDURAL ASPECTS OF A REQUEST BY A PARTY TO SEAL MATERIALS.

NOT MATERIALS THAT ARE SEALED AS A MATTER OF HA. LET'S TAKE, FOR EXAMPLE, THE CLASSIC ONE WOULD BE DISSOLUTION OF MARRIAGE. WHICH IT IS NOT CONFIDENTIAL.

THAT WOULD HAVE TO BE THE SUBJECT OF A MOTION.

UNDER LAW AS IT EXISTED OR THE PROCEDURE IS EXISTED BEFORE --

>> TPHOEUPL -- I'M NOT A FAMILY LAW PRACTICE DIVISIONER.

THAT'S MY UNDERSTANDING.

>> A MOTION WAS BEING MADE FOR THE TRIAL COURT TO SEAL AND THEN THEY SAID I WILL SEAL THE CASE AND THEN THE WHOLE -- NOT ONLY THE CASE GETS SEALED BUT THE REFERENCE --

>> PRECISELY.

>> BUT I THOUGHT THERE WAS ALSO A SITUATION AND THIS WHY I HAVE GOTTEN CONFUSED. WHERE THERE WAS STILL SOME PROCEDURE THAT WAS GOING ON. ADOPTION OR DISCRIMINATION FOR PARENTAL RIGHT THAT THOSE FILES WHICH BY STATUTE OR CONFIDENTIAL WERE SOMEHOW THOSE WERE ALSO BEING SUPER SEALED.

DID YOU LOOK INTO THE

DIFFERENCES?

WHAT IS BEING -- WHAT WAS  
DONE AND WHETHER THE CAME  
FROM CASES THAT WERE NOT BY  
THEIR NATURE BY STATUTE  
CONFIDENTIAL.

WERE THEY BOTH SITUATIONS  
THAT THE PROBLEM WAS  
OCCURRING?

>> I SUSPECT THAT THERE WAS.  
THE ONLY AS SUSPECT THAT THE  
RULE THAT DEALS SPECIFICALLY  
WITH FILES THAT ARE SEALED  
BY OPERATION OF LAW IS THE  
PROVISION THAT SPECIFIES  
THAT UNDER NO CIRCUMSTANCES  
THE COURT COULD ENTER AN  
ORDER DEALING WITH CASE  
NUMBER OR OTHER IDENTIFYING  
ASPECT OF THE DOCKET.  
OUR COMMITTEE AND OUR  
SUBCOMMITTEE DID NOT ADDRESS  
THE OTHER ASPECT OF THE RULE  
BUT RATHER AS WE UNDERSTAND  
OUR TASK WAS TO WHEN IT WILL  
TKPWAPTS COME IN AND ASK FOR  
SOMETHING TO BE SEALED  
THERE'S A MECHANISM FOR  
DOING THAT.

I NOTICE YOU SAID IF THEY DO  
IN A CASE WHERE IT'S NOT  
CONTESTED.

THAT IS BOTH PARTIES WANT  
THE FILE SEALED THE JUDGE IN  
HIS OR HER DISCRETION IN ANY  
EVENT THE JUDGE WILL TAKE  
THE ORDER.

I'M CONCERNED THAT A LOT OF  
THE CASES AND HIGH PROFILE.  
THE JUDGE -- WHAT IS GOING  
TO GET THE JUDGE'S  
IMPRESSION OF HOLDING THE  
HEARING THE JUDGE HAS TO  
ENTER THIS ORDER THAT'S HAS  
SUBPARTS WON'T IT LEAD TO  
THE ORDER BEING ENTERED ON A  
PROFORMA BASIS.

>> THEY DID SPECIFICALLY  
ADDRESS.

THERE'S A LOT OF DISCUSSION  
IN SUBCOMMITTEE ABOUT THIS.  
ABUSES PRIMARILY CAME FROM  
SUBMITTING AN AGREED ORDER  
BY JUDGE.

THESE FILES ARE SEALED AND THE COURT SIGNED OFF BECAUSE THERE'S AGREEMENT OF THE PARTY.

THE RULE WE'VE STEINED GOES AFTER THAT PARTICULAR TYPE OF ABUSE AND SEVERAL DIFFERENT WAYS.

FIRST OF ALL IRRESPECTIVE OF AGREEMENT OF THE PARTY THERE NEED TO BE A MOTION FILED THE LAYS OUT IN DETAIL NOT ONLY WHAT IS THOUGHT TO BE SEALED BUT THE LEGAL AND FACTUAL BASIS FOR THAT SEALING.

SO BEFORE ANY ORDER IS ISSUED THERE'S A MOTION IN FRONT OF THE COURT THAT LAYS OUT THE DETAIL THAT WAS NEVER OBLIGATORY IN THE PAST.

THE COURT ASKED TO MAKE A INCLUSION OF LAW AND STATE A WHOLE SERIES OF THINGS IN THE ORDER THAT WERE NEVER OBLIGATORY IN THE PAST.

>> I UNDERSTAND THAT.

I'M JUST THINKING ABOUT THE PROCESS.

WITH THE JUDGES ON THE COMMITTEE, I'M JUST CONCERNED, AGAIN THAT THIS IS STILL GOING TO END UP BEING SOMETHING WHERE THIS IS SUBMITTED ORDER AND THE JUDGE JUST BECAUSE OF THE NATURE OF THE WAY.

>> ULTIMATE I WILL I THINK THE SUBCOMMITTEE FELT THAT IF THERE WAS AGREEMENT OF THE PARTIES AND THEY LAID OUT THE DETAIL AND SUBMITTED TO COURT THE COURT DIDN'T HAVE THE OWN CONCERNS AND QUESTIONS DIDN'T HAVE REASONS TO BE BOTHERED BY WHAT IS BEING ASKED TO DO. IF AS IF THE HEARING HELD WOULD BE PRO FORMA EXERCISE. EVERYONE WOULD SHOW UP AND SAY JUDGE WE AGREE WE SUBMITTED OUR MOTION AND INDICATED OUR REASON FOR

SEALING AND WHILE THE COURT HAS PARTICULAR KWES WHICH IT HAD THAT'S THE END OF THE HEARING.

BY GIVING THE COURT DISCRETION TO HOLD THE HEARING WE ELIMINATE THAT UNNECESSARY PROCEDURE BUT IN CASES WHERE AGREEMENT OF THE PARTIES AND EVEN ALL THESE POINTS ARE LAID OUT IN THE MOTION AND IN WRITING AND IN DETAIL THE COURT HAS QUESTIONS AND HAS CONCERNS THE RULE GIVES THE JUDGE FLEXIBILITY --

>> I THINK WHERE THE QUESTION IS GOING ON THE FRONT END ALTHOUGH IT MAY BE IN THE NATURE OF AN ADVERSARIAL PROCEEDING THAT QUESTION IS NOT THE PRODUCT ON ADVERSARIAL TESTIMONY. I THINK THAT'S WHERE THE QUESTION IS GOING.

IS THAT A CONCERN OF THE COMMITTEE?

THAT I THINK THE UNDERLYING QUESTION IS THIS CONCERN YOU ARE FILL IN THE BLANKS AND IT'S A BALL GAME AS BEFORE. I THINK THAT'S WHAT IS REALLY THE QUESTION.

>> YOU KNOW THE COMMITTEE RECOGNIZED THAT NO RULE WILL BE WITHOUT THE ABILITY TO BE ABUSED.

AND HERE IF EVERYTHING YOU ASK THE COURT -- IF WE MADE HEARING OBLIGATORY I THINK YOU WOULD HAVE THE PROBLEM. THE COURT PREPARED THE SIGN AND ORDER WITH OUT CONSIDERATION FOR THE MOTION AND WHAT'S WRITTEN ON THE PIECE OF PAPER YOU MAY HAVE ABUSE.

WE DIDN'T THINK THERE WAS A BETTER WAY TO DO THAT IN IN VAST MAJORITY OF CASES THAT'S NOT THE CASE. ONE OF OUR PRINCIPLES UNDERLYING THE RULE IS THE ASHUPL -- ASSUMPTION THE

COURT WILL NOT ENTER  
DETAILED FINDING WITHOUT  
HAVING EUPFB,,

>> THAT IS IMPORTANT.

I MEAN, THAT IS WHAT IS ON  
THIS YOU SHALL SURE, ARE YOU  
SAYING PRESENTLY WHEN YOU  
LOOKED AT IT, THAT MOTIONS  
ARE NOT BEING TRIALED TO  
SEAL INFORMATION ON  
CONFIDENTIAL INFORMANT, HOW  
DOES THAT HAPPEN?

>> WELL, THE COMMITTEE AND  
CERTAIN MEMBERS OF THE  
COMMITTEE TOOK DISCUSSIONS  
THAT SOME OF THE INFORMATION  
IS ALREADY CONFIDENTIAL.

I AM NOT A CRIMINAL  
PRACTITIONER AND THE  
SUBCOMMITTEE DIDN'T GO INTO  
THAT DETAIL WHEN IT WAS  
DRAFTING THESE RULES.

>> MY QUESTION IS: IS THE  
ADOPTION OF THE RULE GOING  
TO COST OR CAST DUT ON THE  
EXISTING PROPERTY?

>> I WOULDN'T THINK SO, YOUR  
HONOR, AGAIN, BUS THIS RULE  
IS SUBDIVISION THAT ONLY  
APPLIES WHAT HAP HAPPEN TOS  
IF STROU OUT OF YOUR WAY.  
IF SOMETHING IS MADE  
CONFIDENTIAL, THIS RULE WILL  
NEVER COME UP, IT WILL NEVER  
BE IMPLICATED BECAUSE  
PROCEDURE WOULDN'T BE  
NECESSARY ARE.

THAT WAS THE VIEW OF SOME  
COMMITTEE MEMBERS.

>> OTHER THAN THE FIRST  
PHRASE OF SUBDIVISION D 1  
WHICH SAYS REQUEST TO SEAL  
SHALL BE IN I WRITING AN  
DIRECTED TO PRESIDING JUDGE,  
THERE IS NO REAL INDICATION  
IN YOUR PROPOSED RULE THAT  
IT APPLIES ONLY TO  
SUBDIVISION C 9 TO C 8 TYPES  
OF CEILING, SHOULD THAT AT  
LEAST BE AN ADDITIONAL  
PROVISION THERE THAT SAYS  
THIS SUBDIVISION SHALL APPLY  
TO REQUEST MAINEDER SECTION  
C 9.

>> WE FELT THAT GIVEN THE STRUCTURE OF THE RULE, GIVEN THE WAY THE LANGUAGE WE USE TO IDENTIFY THIS IS HOW FIRST SENTENCE THAT YOU JUST QUOTED, THAT IT WOULD BE CLEARED.

TO THE EXTENT YOUR HONOR THOUGHT IT WASN'T, SRN LIT MAY BE APPROPRIATE WHEN WE INDICATE THE PURPOSE OF THIS WAS DONE IN THE FIRST INSTANCE WAS TO PROVIDE THAT MECHANISM TO MAKE THAT CLEAR, AGAIN, IF YOU READ THROUGH THE RULE VERY CLEARLY STATES UNDER C 8 AN ELSEWHERE, THESE ARE CONFIDENTIAL.

THEN IT SAY AS REQUEST TO MAKE CONFIDENTIAL THE COURT RECORD MUST BE DONE THE FOLLOWING WAY, SO AGAIN, I DON'T THINK THE SUBCOMMITTEE FELT IT WAS NECESSARY TO DO, THAT IF THERE WAS ANY CONCLUSION, THEY WON A BE APROPOSED TO KNOW WHY IT IS HERE AN WHY WE'RE DOING THAT.

THE SECOND ISSUE, YOUR HONOR, WITH REGARD TO THE CRIMINAL ASPECTS, HE COMMITTEE FELT THAT EVEN IF THE CONFIDENTIAL IN FORM ANT INFORMATION IS NOT SEALED AUTOMATICALLY BY OPERATION OF LAW, THE PROCEDURE THAT WE HAVE IDENTIFIED TAKES INTO KEEP IT THE CONCERNS THAT WERE RAISED BY THE PROSECUTOR'S ASSOCIATION AND THE DEFENDANT'S ASSOCIATION, THAT IS THAT THE RULE DOES NOT REQUIRE YOU TO PUT ANY PARTICULAR INFORMATION IN THE MOTION, IN FACT, BOTH THE MOTION, THE ORDER ARE SPECIFICALLY DESCRIBED AS STATING ONLY WITH AS MUCH DETAIL AS IS POSSIBLE WITHOUT REVEALING THE CONFIDENCES THAT YOU ARE ATTEMPTING TO AVOID, AGAIN,

THE CONCEPT HERE WAS TO EJECT INTO FLEXIBILITY INTO THE PROD PROCEDURE, WHEREBY IF THERE IS SOMETHING YOU CAN'T SAY, YOU DON'T HAVE TO SAY IT.

THE COMMITTEE FELT AS RULE AS WRITTEN PROVIDES ENOUGH FLEXIBILITY TO DO THAT.

I THINK THE COMMITTEE WAS CONCERNED WITH THE IDEA THAT ALL CRIMINAL MATTERS ARE EXCEPT FROM THE FILING FROM THE MOTION AND THE ORDER WHEN IN FACT THE CONCERN MAY HAVE BEEN PARTICULARLY PARTS OF MATTERS WITH REGARD TO CONFIDENTIAL INFORMANTS AND MAYBE OVERBROAD APPROACH DEALING WITH THAT CONCERN. ALL RIGHT.

FINALLY, THE IDEA THAT THE RULE AGAIN IS SOMEWHAT FLEXIBLE, THE INITIAL MOTION COULD BUY OPERATION OF THE EXISTING RULE BE CONFIDENCE, BECAUSE ON THE MOTION ITSELF, YOU ASK THAT THE MOTION BE CONFIDENTIAL, THEN BY OPERATION OF THIS RULE AUTOMATICALLY UPON THE FILING IT WOULD BE, SO THE FRONT END OF THAT CONCERN IS ADDRESSED BY THE PROCEDURE. THE BACK END, THE IDEA THE ORDER WOULD BE CONFIDENTIAL IS NOT.

IT CLEARLY STATES THE ORDER IS TO BE MADE PUBLIC IF YOU WERE CONCERNED ABOUT, THAT THAT WOULD HAVE TO CHANGE IN ORDER TO ADDRESS THE CONCERN.

>> WOULDN'T IF THERE IS SOME NEED UNDER, IN SOME ORGANIZED CRIME INVESTIGATION OR SOME TYPE OF INVESTIGATION OR REMAIN CONFIDENTIAL THAT THERE IS ANY COURT PROCEEDING AT ALL, WOULD BE THIS RULE RUN INTO A PROBLEM WITH THAT. THERE WERE MEMBERS OF THE COMMITTEE THAT WERE CONCERNED.

IF THE STATE IS SUCH THAT BY THE MERE FILING OF ANYTHING IN A CRIMINAL CASE, YOU ARE TIPPING OFF THE BAD GUY, THEN, YES, OUR PROCEDURE WOULD NOT ADEQUATELY ADDRESS THAT, IF THAT WERE TRUE. I DON'T KNOW THAT TO BE TRUE AGAIN.

OUR COMMITTEE WAS CLOSED TO CIVIL PRACTITIONERS NEXT, WE WERE HESITANT TO STEP TOO DEEP INTO THE CRIMINAL ASPECTS.

WE WERE NOT THAT FAMILIAR WITH IT.

BY THE COMMITTEE AS A WHOLE IT WAS NECESSARY AND THOSE CRIMINAL PRACTITIONERS FELT YOU IT ADDRESSED IT.

THIS CONCERN IS WELL-TAKEN IF IT IS TRUE BY NEAR FUTURE OF THE FACT THAT ANYTHING THAT HAS HAPPENED ON THE ISSUE IN THE CASE IS ADEQUATE TO TIP OFF THE PEOPLE WHO ARE LOOKING.

>> OF COURSE, WE KNOW, THERE HAS BEEN A GREAT DEBATE IN THE FEDERAL LEVEL ABOUT THIS TYPE.

>> AND SOME OF OUR THOUGHTS, BUT THE COMMITTEE IS 100% CONVINCED THAT IS A CRUCIAL ISSUE AND WE'RE ABSOLUTELY CONCERNED THAT WE WANT TO MAKE SURE THAT THE CONFIDENTIAL INFORMANTS ARE PROTECTED AND OUR REACTIONS TO THE PROPOSAL NOT OUT OF DISRESPECT FOR THE CONDITION THAT THEY COULD ADEQUATELY ADDRESS IT, AGAIN, EVERYONE AGREED THIS WAS A CRUCIAL ISSUE, AGAIN, BY MERE EXISTENCE OF ANY ORDER DEALING WITH ANY CONFIDENTIAL ASPECT APPEARING; HOWEVER, OBLIQUE THAT ORDER IS, THAT CONCERN IN OF ITSELF AND THE RULE AS WRITTEN WOULDN'T ADDRESS THAT.

>> YOU SAID YOUR COMMITTEE

IS COMPRISED PRIMARILY OF CIVIL PRACTITIONER, FIRST OF ALL, THE COMMITTEE, I KNOW THE COURT, YOU KNOW, THANKS EVERYBODY FOR THE DILIGENT WORK THAT WAS DONE, SO ANYTHING I AM SAYING IS NOT MEANT TO BE CRITICISM, BUT WHEN YOU SAY THAT, I ASKED YOU ABOUT ADOPTION, YOUR CIVIL PRACTICE THAT DEALS WITH FAMILY LAW, MY CONCERN IS THAT IF WE DON'T LOOK AT THIS AS FAR AS THIS HOW THIS WOULD OPERATE IN EACH TYPE OF, YOU KNOW, EACH OF THE CASES THAT EXISTS, WE ARE EITHER GOING TO BE OVERPROUD OR OVER INCLUSIVE OR UNDERINCLUSIVE, SO IT IS NOT TO MAKE SURE THAT WE LOOK AT WHAT IS OUT THERE WHICH WE HAVE THAT REPORT FROM EACH OF THE CIRCUITS AS TO WHAT THE CASES WERE SUPER SEALED BUT TO SEE THEN TO TAKE A CIVIL CASE WHERE THERE HAS BEEN A TRADE SECRET. THAT IS ONE THING, THAT IS SOMETHING LIKE THAT, AGAIN, BUT WHEN IT GETS TO THE OTHER AREAS THAT ARE JUSTICE CANTERO SAID, MY CONCERN IS THAT WE NOW MAY HAVE THE SITUATIONS WHERE THOSE FILES ARE EITHER, YOU KNOW, WE NEED TO HAVE PROCEDURES FOR THOSE FILES AS WELL. YOU ARE SAYING DIDN'T REALLY CONSIDER THOSE SEALED BY OPERATION OF LAW. WELL, WE DIDN'T ONLY BECAUSE IN EFFECT, THERE IS NOTHING TO BE DONE. THOSE FIRES ARE DEEMED CONFIDENTIAL. THE RULE SAID, THE LAW OUT THERE. >> BUT I THINK SOME OF THE ABUSE, NOT IN THE CRIMINAL AREA, BUT SOME OF THE OTHER AREAS CAME FROM CASES THAT MIGHT HAVE BEEN CONFIDENTIAL BY OPERATION OF LAW.

>> I DON'T KNOW THAT HE TO BE TRUE, YOUR HONOR. AGAIN, OUR COMMITTEE SAT DOWN, WE PRUNLD EAR FAIRLY TIGHT SCHEDULE.

WE DECIDED WHAT WE WERE GOING TO DO IS ESTABLISH A PARTY COMES TO THE COURT TO ASK THEM TO SEAL MY FILE, I GOT DIVORCED I WANT IT OFF THE PUBLIC RECORD, THIS IS THE PROCEDURE.

>> CAN YOU ADDRESS THE BURDEN OF PROOF WHEN WHEN SOMEONE COMES IN THAT A RECORD BE UNSEALED. WHO SHOULD HAVE THE BURNED OF PROOF INTHE PERSON REQUESTING OR THE ORIGINAL PARTY REQUESTING THE SEALING?

>> THE COMMITTEE FELT THAT THE ANSWER TO THAT IS THE PARTY SAEK SEEKING TO UNSEAL LIKE ANTICIPATE OTHER ORDER ISSUED BY COURT, THERE BE A PRESUMPTION OF VA VALIDITY AS A RESULT OF THE SPREAD DURE.

THE REASON THE POSITION WAS WHAT WE THOUGHT TO BE APLAUDED ASSUMPTION, THAT IN FACT, IF AN ORDER WAS ISSUED WITHOUT HAVING PUBLIC NOTICE OR WITHOUT HAVING A HEARING AMONG PARTY, INADEQUATE CONSIDERATION WAS GIVEN TO THE ORDER BUT BY ITS NATURE, YOU CAN'T GIVE THAT ORDER LIABILITY THAT YOU NORMALLY WOULD BECAUSE THIRD PARTIES WERE IN THE ALLOWED TO COME TO PROCEEDING TO MAKE AN ARGUMENT OR THERE WAS NOT AN ORAL ARGUMENT INED A ADVERSARIAL PROCEEDING.

THEY COMMITTEE FELT THERE IS A HIGH BURDEN UNDER THE LAW FOR MAKING THE RECORD CONFIDENT, NOW, WE FEEL LIKE WE CAN IMPOSE A HIGH BURDEN PROCEED DRALLY AS WELL, THERE IS A LOT OF HOOPS AS YOU READ DETAILS OF A NEW

PROCEDURE, WE FELT IF AN ORDER IS YOU SHALL ARE ISSUED AS RESULT OF THAT HIGH BURDEN PROCEED DRALLY, THAT ORDER SHOULD BE IN THE SAME CONCEPT OF RELIABILITIES ON THE OTHER JUDICIAL ORDER IF A THIRD PARTY WANTS TO COME IN AND CHALLENGE IT THEY SHOULD HAVE BURDEN OF PROVING THERE WAS SOMETHING WRONG.

>> TO THE ORIGINAL QUESTION, IN THE INITIAL DECISION-MAKING PROCESS, YOU DON'T ARE THE TRADITIONAL ADVERSARIAL NATURE, IF IT IS AN AGREED UPON, IF EVERYBODY IS PRESENG IT TO THE JUDGE IN THAT FASHION, WE HAVE NEVER REALLY THRUSTS JUDICIAL OFFICERS AS TO BECOME INVOLVED IN THE ADVERSARIAL NATURE, SO WE DON'T HAVE ANOTHER SIDE TESTING IT, I THINK THAT IS WHERE WE IS GOING, WHERE THE CONCERN IS, THEN AT THE TEND, AFTER IT IS DONE, THEN SOMEBODY ELSE HAS AN ADDITIONAL BURDEN, I THINK THAT IS WHERE THE QUESTION IS.

>>> THIS GETS INTO THE ISSUE.

THEIR PROPOSAL WAS IN EFFECT SOMETHING OF A COMPROMISE, IF THE INITIAL ORDER RESULTS AFTER THE PUBLIC NOTICE BEING ISSUED.

AFTER ADVERSARIAL HEARING IT SHOULD BE PRESUMED RELIABILITY, IF SOMEBODY WANTS TO CHALLENGE IT, THEN IT WOULD BE APPROPRIATE. OUR COMMITTEE NEVER HAD THE OPPORTUNITY TO ADDRESS THAT. THERE WAS THAT REPORT THAT CAME OUT AFTER THE LAST MEETING SO I CAN TELL YOU IS HOW I FEEL AND HOW I FEEL ABOUT IT, THAT IS, I THINK, THERE IS TO EXTENT WERE YOU LOOKING FOR THAT COMPROMISE, YOU FEEL THERE WAS SOMETHING

UNRELIABLE ABOUT AN ORDER  
ISSUE WITHOUT PUBLIC NOTICE,  
THEN, THAT MAKES SOME SENSE  
EXCEPT I WOULD DRAW THE LINE  
IN A DIFFERENT PLACE.  
I WOULDN'T SAY THAT IT WAS  
NECESSARILY TO SHIFT  
PRESUMPTION ONLY WHERE THERE  
HAS NOT BEEN A HEARING AND  
PUBLIC NOTICE, BUT RATHER,  
WHERE THERE HAS NOT BEEN A  
HEARING, I GAIN, THE FACT  
THAT YOU BROUGHT IN  
NON-PARTIES TO MAKE THE  
ARGUMENT MEANS WHAT YOU ARE,  
YOU HAVE ANOTHER PROPOTENT  
OF OPENNESS COMING TO THE  
PROCEED DOINGING, I IF I  
THINK IF YOU ARE GOING TO  
HAVE UNDERLYING ARGUMENT  
EVEN WITHOUT THEM BEING  
THIRD PARTY, YOU WILL HAVE A  
PROPOR NENT OF OPENNESS,  
THEIR CONCERN IS, THE ORDER  
THAT ISSUES IS UNREABLE, NO  
ONE IS TAKING A SIDE OF  
PUBLIC OPENNESS, MAKING THAT  
ARGUMENT FROM THE COURT.  
THAT CONCERN IS ADDRESS FIRE  
DEPARTMENT THERE IS A  
HEARING BECAUSE NOW YOU GOT  
BOTH SIDES PRESUMABLY ONE IS  
IN FAVOR OF SEALING, ONE IN  
THE FAVOR OF OPENNESS.  
THE OTHER ONE HAS THE  
OPPORTUNITY TO CONSIDER  
THOSE ARGUMENTS THE FACT YOU  
DIDN'T SEND TO THIRD PARTIES  
WHO CAN COME IN, ALSO, NOT  
REPRESENTING PARTIES TO THE  
CASE, MINE YOU, BUT JUST THE  
CONSENT OF OPENNESS.  
IT DOESN'T STRIKE ME THAT  
WOULD YOU NEED TO SATISFY  
THAT IT HAPPENED, AGAIN, IN  
MOST CASES, IT IS NOT GOING  
TO BE NECESSARY TO ISSUE  
PUBLIC NFERTS AFTER THE SEAL  
OF ASPECT OF THE RECORDS.  
>> IF THEY COMMITTEE REALLY  
CONSIDER WHETHER OR NOT  
THERE SHOULD BE PUBLIC  
NOTICE AT THE BEGINNING?  
>> ABSOLUTELY.

>> WHAT WAS THE REAL REASON?  
IT SEEMS TO ME, IF WE ARE  
TALKING ABOUT OPEN  
GOVERNMENT AND THE PEOPLE'S  
RIGHT TO ACCESS THE PUBLIC  
RECORD, WHY NOT AT THE VERY  
BEGINNING, YOU KNOW, GIVE  
PUBLIC NOTICE WHEN SOMEONE  
WANTS TO SEAL A RECORD THAT  
IS NOT OTHERWISE ALREADY  
CONFIDENTIAL.

>> TO ANSWER YOUR QUESTION,  
YOUR HONOR, THE COMMITTEE  
PROBABLY ADDRESSED THAT  
QUESTION IN EVERY  
SUBCOMMITTEE MEETING, THERE  
WERE A HALF DOZEN OF THEM.  
THAT ISSUE CAME UP AGAIN AND  
AGAIN BECAUSE WE THOUGHT  
THAT WAS THE REAL  
BATTLEGROUND HERE.  
ANY EFFORT TO SEAL ANSWER  
ASPECT OF THE FILES FEESARY.  
WE DISCUSSED IT AGAIN AND  
AGAIN.

THE COMMITTEE 10 TO 1, 9 TO  
1, 12 TO 1 GENING ON WHO WAS  
THE CALL FELT THAT WAS  
UNNECESSARY.

FIRST OF ALL, THERE IS  
ALREADY AN EXISTING CONCEPT  
UNDER THE RULES.

IF YOU LOOK AT THE 1998  
AMENDMENT, THIS DECISION IS  
EFFECTING THE EXISTING  
RULES.

IT MAKES IT CLEAR THAT  
PUBLIC NOTICE IS NOT  
NECESSARY, IT IS NO LEGALLY  
REQUIRED CAN PROPOSE A GREAT  
BURDEN.

AS A RESULT, THEY THOUGHT IT  
WAS A COME BER SOME  
PROCEDURE, THAT BATTLE WAS  
FOUGHT.

THEN, WHEN WE BROUGHT IT UP  
AGAIN, THE PARTIES FELT THAT  
MOST CASES IT WAS NOT  
NECESSARY.

IN MOST CASES, YOU WILL BE  
IMPOSING A BURNED ON PEOPLE  
WHO DIDN'T NEED A BURDEN  
OVER A COMMON VARIETY OF  
THINGS, ALSO, I THINK,

THERES WITH A CONCERN THAT  
BY THE SAME TOKEN THAT BE  
PERMISSIBLE, THAT THE COURT  
WOULD BE ALLOWED EX-POLICEBLY  
IN THE RULE TO BE ALLOWED TO  
POST PUBLIC NOTICE WHERE THE  
REQUEST WARRANTED IT, SO THE  
COMMITTEE BUILT THAT IN TO  
NEXT POLICE SIT VEXABILITY  
FOR THE REPORT TO DO IT BUT  
NOT TO MAKE IT OBLIGATORY  
KEEPING INTRADIGS OF THE LAW  
OF THE PRIOR RULE HAVING  
BEEN CONSIDERED NOT MAKE IT  
OH BLIT GA TORY AND THE  
OVERWHELMING VIEW THAT THAT  
NOT BE NECESSARY THAT YOU  
NOT BE REQUIRED TO POST  
PUBLIC NOTICE.

>> IS THERE PROCEED UNDER  
THE OTHER SUBDIVISION AND  
THE ONES BEFORE WHERE A  
NON-PARTY SEEKS TO UNSEAL A  
COURT RECORD THAT IS SEALED  
BY OPERATION OF LAW, THE  
ARGUMENT MAY BE THIS DOES  
NOT FALL UNDER THAT STATUTE.  
>> TO MY KNOWLEDGE, YOUR  
HONOR, NO PROCEDURE ANYWHERE  
FROM THAT CHALLENGE, IT  
WOULD BE GOFF PERSON TOED BY  
INTERVENERS OR OTHER  
EXISTING LAW.

IT WAS OUR GOAL TO  
SPECIFICALLY COD FY THE  
PROCEDURES TO ALLOW A  
CALENDAR TO COME IN.  
ONE OF THE THINGS I WOULD  
LIKE TO SAY, WHEN THIS  
INITIAL PROPOSAL WAS MADE  
PUBLIC AN PUBLISHED FOR COME  
MEN TARRY, THEY WERE  
FAVORABLE BECAUSE THE MEDIA  
WAS PLEASED TO SEE ALL OF  
THE SAFE CARDS WE IMPOSED IN  
A WORLD WHERE THEY HAD BEEN  
DONE.

THE FACT WE COD FY THE  
ACCOUNT OR MADE IT CLEAR  
THAT SOMEBODY CAN COME IN  
AND CHALLENGE THE FACT WE  
CAN SPECIFICALLY COD FY THE  
CONCEPT UNDER CERTAIN  
CIRCUMSTANCES NOTICE TO THE

PUBLIC WOULD OUT.

>> AGAIN, UNDER YOUR PROPOSAL.

THIS WOULD APPLY TO C 9 WE WOULD BE LEFT WITHOUT ANY KIND OF PROCEDURE FOR THE OTHER KINDS OF SEALINGS.

>> AGAIN, YOUR HONOR, THAT IS NOT BECAUSE OUR COMMITTEE LOOKED AT THE WHOLE ROOL RULE GIVEN THE RATHER LIMITED AMOUNT OF TIME AVAILABLE US TO, WHAT CAN WE DO IN SIX WEEKS THAT IS USEFUL TO LITIGANTS IN THE STATE?

THAT WHAT IS IS WHAT WE DID.

>> I REALIZE YOU ARE IN YOUR REBUTTAL, YOU BROUGHT UP SOMETHING THAT I WANTED TO ASK YOU ABOUT.

THE COURT CLERKS, I MEAN, SOME ISSUES THAT OCCURRED CAME, THINK, BECAUSE MAYBE THERE WAS MISCOMMUNICATION ABOUT WHAT THE ORDER MEANT OF THE TRIAL JUDGE.

THEY, THE COURT CLERKS ASKED THAT THERE BE PROCEDURE CLERK CLARIFICATION OF ORDER MAKING COURT RAILROADEDS CONFIDENTIAL, YOU CONCLUDED THAT THERE WAS NOT A NEED FOR THAT, BUT THE RULE DOESN'T BAR A CLERK FROM SEEKING CLARIFICATION WITHOUT THE NEED FOR A MOTION OR NOTICE.

ISN'T IT BETTER TO HAVE A PROCEDURE?

IN OTHER WORDS, RATHER THAN SAYING, YOU ARE GOING TO HAVE THE CLERK TALK TO THE JUDGE ABOUT WHAT DID YOU MEAN BY THIS?

WOULDN'T IT BE BETTER TO HAVE AN OPEN PROCEDURE FOR THE CLERK TO SAY, DID YOU MEAN THIS OR THAT?

YOU KNOW, JUST SOMETHING THAT IS THEN OF RECORD?

>> YOUR HONOR, WE DIDN'T DISCUSS THAT AT LENGTH. FOR TWO REASON, WE ARE

RESPONSIBLE NOT TO ACCEPT THAT.  
ONE THAT IS WE DIDN'T THINK IT WAS NECESSARY.  
TWO IS, WE THOUGHT THERE WAS SOMETHING ACTUALLY BAD ABOUT REQUIRING IT.  
TO DRES THE NECESSARY ASPECT.  
ONE OF THE REASONS, ONE OF THE THINGS REPORTED BACK AS TO WHY IT WAS HAPPENING, A LACK OF COMMUNICATION, THE ORDER WAS DETAILED TO CONVEY THE CONFUSION, THAT IS THE REASON WE HEARD, THESE TWO BECAUSE IN FACT THE CLERK WAS NOT GIVEN SUFFICIENT GUIDANCE, OUR PROPOSED RULE MAKES IT EX PLESS SIT WHAT NEEDS TO BE IN THAT ORDER BY ADDING DETAIL, WE WERE HOPEFUL THAT ALL OF THE CONFUSION WOULD BE ANTICIPATED BECAUSE MORE WE CAN THINK OF TO TELL THE CLERK IN TERMS HOW YOU YOU GO ABOUT SEALING IT.  
WE DIDN'T FEEL IT WAS NECESSARY, BUT AT THE SAME TOKEN, THERE WAS CONCERN ON THE SUBCOMMITTEE.  
AMONG THE JUDGES TO ESTABLISH THIS PROCEDURE, YOU GOT TO FILE A MOTION, THEY GOT TO GIVE NOTICE.  
IN EFFECT, CREATE THE WHOLE LEVEL OF PROCEDURE IN ORDER TO GET WHAT MAY HAVE BEEN TO GET A SIMPLE QUESTION ANSWERED.  
YOU ARE IMPOSING A HUGE BURDEN.  
D, YOU MAY IN EFFECT CHILL THE QUESTION IN THE FIRST INSTANCE.  
LOOK, I WILL NOT FILE A MOTION.  
ABSOLUTELY BY THE SAME TOKEN, THE COURT FELT IF THEY GOT THE ADDITIONAL GUIDANCE IN THE COURT ORDER THAT WE WERE PROPOSING THEN THE INFORMAL LINES OF COME HUN CASE,

ULTIMATELY TO REQUIRE EVERY CLERK UNDER EVERY CIRCUMSTANCE WHERE THERE IS A QUESTION, IT IS GOING TO BURDEN THE LITIGANTS.

SO AGAIN, THE CONCERN WAS THAT THAT RULE WASN'T ONLY UNNECESSARY BUT WAS NOT A GOOD IDEA BECAUSE WE HAVE A CHILLING EFFECT AND IMPOSE A HUGE DEGREE OF BURDENEN IN THE STIM.

>> WITH OUR HELP, YOU HAVE ALMOST EXHAUSTED YOUR REBUTTAL TIME.

>> THANK YOU.

>> OKAY.

>> GOOD MORNING, JUSTICE, MAY IT PLEASE THE COURT? I MY NAME IS CAROL TOUHY. I HAVE THE PRIVILEGE OF REPRESENTING DIANE MATOUSEK IN VOLUSIA COUNTY, FLORIDA, I WOULD LIKE TO FIRST ADDRESS ONE OF THE COMMENTS THAT JUSTICE PARIENTE MADE IN REGARD TO THE CLERK BEING IN SUPPORT OF THE RULE AS IT SPANS WITH THE RULES COMMITTEE.

THE FACC, THE FLORIDA ASSOCIATION OF COURT CLERKS NEVER CONTACTED OUR OFFICE IN REGARD TO THESE CHANGE, ONCE WE RECEIVED THE REPORT ARE THE RULES COMMITTEE, PROPOSING THESE CHANGES WE IMMEDIATELY CONTACTED FACC TO EXPRESS THE TWO CONCERNS THAT I AM GOING TO BE ADDRESSING HERE BEFORE YOU TODAY AND THE FACC BASICALLY TOLD US THAT THEY HAD ESTABLISHED A GOOD RELATIONSHIP WITH THIS COURT ARE PE RULES COMMITTEE, THAT THEY WERE EMBARRASSED TO BE ABLE TO COME BACK AND AMEND OR REVISE THEIR PROPOSALS THAT THEY SENT.

>> YOUR COMMENTS WILL NOT DESTROY THAT RELATIONSHIP?

>> WE ARE STILL WORKING TOGETHER TO TRY TO GET THIS

RESOLVED.

PLEASE, GO AHEAD.

>> THANK YOU VERY MUCH.  
THE FIRST SECTION THAT WE  
HAVE ISSUES WITH ARE D 1 B  
IN WHICH WHEN THE RECORD IS  
FILED THAT THE CLERK IS TO  
TREAT IT AS CONFIDENTIAL ONE  
OF THE ISSUES WE HAVE WITH  
THAT IS IT DOES IMPOSE A  
BURNED ON OUR OFFICE BECAUSE  
A PLACE HOLDER WOULD HAVE TO  
BE PUT IN THE FILE BASICALLY  
SAYING, YES, DOCUMENT 44 IS  
MISSING BECAUSE IT IS PENING  
THIS MOTION FOR  
CONFIDENTIALITY.

AND ALSO IF YOU LOOK AT  
SECTION NUMBER 22 IN THAT.  
IT PROSIDES THAT THE  
HEARINGS FROM THESE THINGS  
WOULD BE PUBLIC HEARINGS.  
OTT ONLY THAT, BUT IT GIVES  
THE TRIAL JUDGE DIGRESSION  
TO ACTUALLY HAVE A PUBLIC  
NOTICE GIVEN BEFORE THE  
HEARING, SO ACTUALLY, WHAT  
IT IS DOING IS SAYING, OKAY,  
WE'LL HAVE A PUBLIC HEARING,  
WE CAN POTENTIALLY HAVE  
NOTICE OF THIS PUBLIC  
HEARING ON THIS CONFIDENTIAL  
DOCUMENT BUT THE ONLY PERSON  
RIGHT NOW WHO IS ACTUALLY  
REQUIRED TO KEEP IT  
CONFIDENTIAL IS THE CLARK'S  
OFFICES.

WE DON'T UNDERSTAND HOW THAT  
CAN WORK.

IF YOU ARE GOING TO HAVE  
PUBLIC HEARING ON  
CONFIDENTIAL DOCUMENT.  
THEREFORE, IT SEEMS LIKE IT  
WOULD BE BETTER COVERED  
UNDER SOMETHING LIKE THE  
DISCOVERY RULES IN WHICH  
SOMEONE REQUEST AN IN-CAMERA  
HEARING ON THIS  
CONFIDENTIALITY AND THE  
DOCUMENT ITSELF.

AND THAT WAY IT WON'T BE  
GOING INTO A FILE IN A  
SEALED ENVELOPE AND THERE  
WILL NOT BE A PLACE HOLDER

AN ALSO IT WON BE SCANNED INTO OUR SYSTEM WHICH WOULD REQUIRE THE INTELLECTUAL TECHNOLOGY PO PEOPLE TO GET INVOLVED ALSO IF IT WERE NOT FOUND TO BE CONFIDENTIAL.

>> LET ME ASK YOU A QUESTION:

ON THE BURDEN OPINION, HOW COMMON IS THIS FROM YOUR KRRK'S EXPERIENCE THAT THE MOTIONS WERE FILED?

>> WELL THE MOTIONS RIGHT NOW ARE JUST BEING UNDER THIS RULE.

WE PRETTY MUCH DON'T HAVE MOTION FORCE CONFIDENTIALITY UNLESS OF COURSE IT IS SOMETHING UNDER DISCOVERY IN WHICH SOMEONE WOULD FILE A MOTION FOR PROTECTIVE ORDER OR SOMETHING LIKE THAT THEN IT WOULD BE IMMEDIATELY HEARD BY THE COURT THEN THEY WOULD MAKE THE DETERMINATION AS TO WHETHER SOMETHING WAS DISCOVERABLE, BUT RATING NOW, THERE IS NOT ANYTHING THAT WOULD EXCEPT FOR THIS PROPOSED RULE THAT WOULD EFFECT OUR OFFICE.

>> IS THE CLERK IN ANY POSITION TO KNOW HOW MANY OF THESE ARE BEING FILED OR WOULD BE FILED?

IN OTHER WORDS, HOW WOULD THE CLERK'S OFFICE KNOW?

>> WE HAVE NO IDEA HOW MANY MAY BE FILED BUT THE ISSUE IS YOU, I BELIEVE, ONE OF THE OTHER PARTICIPANTS, MR. FOUNTAIN, HAD EXPRESSED IN HIS COMMENTS, THAT THERE COULD BE A POTENTIAL FOR FRIVOLOUS FILINGS OF THIS NATURE, IN ORDER TO HOLD UP PROCEED DOOLINGS OF THINGS OF THAT NI TURE.

WE THINK OF PROSPECT FOR THESE MOTIONSS BEING FILED MAY BE QUITE HEAVY.

>> SO WHAT US THE CLERK'S PROPOSAL THEN?  
IT SEEMS TO ME, IF YOU ARE

NOT GOING TO HAVE  
CONFIDENTIAL, ONCE THE  
MOTION IS FILED, THEN IT IS  
SORT OF MAKES THE MOTION.  
>> WELL, WHAT WE WOULD STATE  
IS IF A PARTY --  
>> WE WOULD STATE IF A PARTY  
BELIEVE AS DOUM IS OF  
CONFIDENTIAL, IF THEY SHOULD  
HAVE HEARING PRIOR TO THE  
FILING OF THAT RECORD IF  
THEY DON'T DO IT, IF THEY  
FILE THAT RECORD, IT BECOMES  
PUBLIC RECORD THE SECOND IT  
BASICALLY HITS OUR PHYSICAL  
FILE AND OUR SCANNED  
DOCUMENTS AND IF THEY FILE A  
MOTION A WEEK LATER, THIS  
DOCUMENT COULD HAVE BEEN  
DISCOVERED DURING THAT WEEK.  
>> YOU ARE REALLY TALKING  
ABOUT GOING BACK.  
WE WOULD BE HAVING CLOSED  
HEARINGS TO DETERMINE DP THE  
DOCUMENT IS CONFIDENTIAL?  
>> WELL, WHAT WE ARE  
BASICALLY SAYING IS WE  
BELIEVE THIS RULE PUTS THE  
CART BEFORE THE HORSE.  
AND THAT IF A DOCUMENT IS  
CONFIDENTIAL, IT SHOULD BE  
DETERMINED BY THE COURT THAT  
IT IS CONFIDENTIAL BEFORE  
PIT IS EVEN FILED WITH OUR  
OFFICE.  
>> ISN'T THAT A PROBLEM OF  
THE LITIGANTS THAT IS THAT  
THE LITIGANTS ARE AWARE OF  
THE FACT THAT SOMETHING IS  
GOING TO BE A PUBLIC RECORD  
FOR A PERIOD OF TIME BEFORE  
THEY HAVE IT DECLARED  
CONFIDENTIAL.  
THAT IS THEIR PROBLEM, IS IT  
NOT.  
>> YES, THAT IS THEIR  
PROBLEM.  
>> ANSWER DISTINCTLY AS  
POSSIBLE BECAUSE YOU ARE  
BEYOND YOUR TIME.  
>> BECAUSE OF THE MOTION, I  
AM SORRY.  
BECAUSE OF THE MOTION, ONCE  
THEY FILE THAT MOTION, WE

HAVE TREAT IT AS CONFIDENCE,  
SO WE WOULD HAVE TO REMOVE  
THAT DOCUMENT FROM THE FILE  
AN PUT IN THAT PLACE HOLDER  
AND GO THROUGH THE CHANGES  
THAT WOULD BE LABOR  
INTENSETIVE AS WELL AS  
TAKING IT OFF THE SCANNED  
DOCUMENTS AND THINGS OF THAT  
NATURE.

THE OTHER CONCERN WE HAD,  
WILL ADDRESS IT QUICKLY, THE  
NOTICE REQUIREMENT, AFTER  
THE ORDER COMES OUT, THAT WE  
ARE REQUIRED TO GIVE THE  
NOTICE, THE RULES COMMITTEE  
SAID THEY CONSIDERED THE  
COST AND EXPENSIVE SOMETHING  
LIKE THIS AND WE BELIEVE IT  
WOULD BE MORE COST YOULY AN  
EXPENSIVE ON OUR OFFICE TO  
PROVIDE THIS NOTICE ON OUR  
WEB SITE AN HIGHLY  
ACCESSIBLE THROUGH OUR  
COURTHOUSE RATHER THAN  
HAVING THE LITIGANT  
THEMSELVES THE COST OF THIS  
KIND OF NOTICE.

>> THANK YOU VERY MUCH.  
MR. KEEN?

>> MAY IT PLEASE THE COURT  
MY NAME IS HAMPTON KEEP, AIM  
APPEARING INDIVIDUALLY ON  
BEHALF OF DON FOUNTAIN AND  
MY LAW FIRM LYTAL, ARE  
EITER, CLARK, FOUNTAIN AND  
WILLIAMS.

WE OPPOSE TO RULE 2.240 AS  
IT RELATES TO HANDLING OF  
ALLEGED TRADE SECRETS FOUND  
IN SUBSECTION C 9 A 2  
BECAUSE THE PROPOSED RULES  
WILL RESULT IN A HUGE AMOUNT  
OF ADDITIONAL JUDICIAL TIME  
AND USE OF JUDICIAL  
RESOURCES AND VIRTUALLY  
EVERY SINGLE PRODUCT  
LIABILITY CASE.

>> IT IS DONE TO SATISFY  
YOUR CONCERN?

>> TO SATISFY OUR CONCERNS,  
YOUR HONOR, WE WOULD SUBMIT  
THE COMMITTEE DO SEVERAL  
THINGS.

ONE, YOU COULD OMIT TRADE SECRETS FROM THE RULES AND JUST TAKE THAT OUT OF THIS CONTEXT, BUT WHAT WE WOULD SUGGEST, YOUR HONOR, IS A BETTER WAY, AN OPPORTUNITY TO STREAM LINE THE DISCOVERY PROCEDURE IN TRADE SECRET CASES.

WE WOULD SUGGEST TO THE COURT SEVERAL THINGS -- FIRST, THAT THERE BE A STRINGENT RULE DEFINING WHAT IS A TRADE SECRET.

AND UNDER THAT DEFINITION, IF IT IS FOUND TO BE VIOLATED AND THAT SOMEBODY HAS PROPORTEED A TRADE SECRET BAD FAITH THAT NOT ONLY THE CORPORATION BE SANCTIONED OR PROPORTING AN ALLEGED BAD TRADE SECRET BUT TWO, THE LAWYER WHO GOES ALONG WITH THAT ALSO BE SANCTIONED.

>> YOU ARE GETTING INTO SOME REAL SUBSTANTIALIVE ANALYSIS.

>> YES, SIR.

I APOLOGIZE, I WAS READY FOR THE QUESTION, BUT TO GET BACKING INTO WHAT WE BELIEVE IS A PANDORA'S BOX HERE IS THAT THERE ARE GRAVE UNINTENDED CONSEQUENCES IF THIS RULE IS PASSED.

WHAT IS GOING TO HAPPEN BASED ON OUR 30 YEARS OF LITIGATING PRODUCT LIABILITY CASES, ANY RELEVANT DOCUMENT THAT MAY BE ADVERSE TO THE CORPORATION WILL BE DEEMED A TRADE SECRET.

ONCE IT IS DEEMED A TRADE SECRET, PROCEDURES THAT THE PETITIONER HAS ALREADY SAID A LOT OF HOOPS TO JUMP THROUGH WILL BE IMPLY INDICATED.

THAT WILL PERMIT THE CORPORATION TO DELAY THE PRODUCTION OF DOCUMENTS UNTIL A HEARING YOU HAS BEEN HAD ON THE DOCUMENT.

>> DO WE HAVE PROCEDURE FOR THIS?

>> THE PROBLEM WITH THE EXPEDITED PROCEDURE FOR THIS, YOUR HONOR, FROM A FACTFUL STANDPOINT, IT WILL NEVER WORK.

RIGHT NOW IN THE 15th CIRCUIT, THE 11th CIRCUIT, THE 13th CIRCUIT, SEVERAL OTHER CIRCUITS WHERE I PRACTICE ROUTINELY TO GET A ONE-HOUR SPECIAL SET HEARING WHICH IS A TYPE OF HEARING AT A MINIMUM, WOULD YOU NEED TO RESOLVE A TRADE SECRET ISSUE THAT THOSE HEARINGS CANNOT BE SAID FOR 60 TO 90 DAYS.

>> WHAT DO YOU DO ON THE DISCOVERY PROCESS IF THEY CLAIM IT IS TRADE SECRET?

>> WHAT HAPPENS NOW, YOUR HONOR, TYPICALLY, WE'LL FILE A MOTION TO COMPEL, THEN, WE'LL GO BEFORE THE COURT, WE'LL SAY, YOUR HONOR, WE CAN DECIDE WHETHER OR NOT THE TRADE SECRETS LATER, IF WE AGREE RIGHT NOW TO KEEP THEM CONFIDENTIAL AND ONLY SHARE THESE DOCUMENTS TO OUR EXPERTS, WILL YOU LET US HAVE THE DOCUMENTS IN THE DEFENDANTS TYPICALLY WILL REFUSE DO THAT UNLESS THE COURT ORDERS IT, BUT THE GOOD THING RIGHT NOW, AT LEAST CAN I DO THAT AT A HEARING AT 5 OR 10-MINUTE HEARING TO GET IN BEFORE THE COURT BECAUSE THE NAME OF THE GYM ON THE CORPORATIONS IS DELAY.

THEY WILL USE THIS RULE, THE CORPORATE AMERICA AND THE FOREIGN CORPORATIONS WILL ABUSE THIS RULE, BUT NOT SANCTIONS AVAILABLE TO THE COURT?

SPECIFICALLY IN THE RULE?

>> THERE ARE IN THIS PROPOSED RULE, BUT QUITE DAN DIDDLEY, YOUR HONOR, THE SANCTIONS ARE LAUGHABLE.

BECAUSE CORPORATE AMERICA  
WILL GLADLY PAY A 2 OR  
10,000 FINE INSTEAD OF  
TURNING OVER THE DOCUMENT  
THAT MAY CAUSE THEM MILLIONS  
AS THAT DOCUMENT BECOMES  
PUBLIC.

AND SOP WE BELIEVE THE RULE,  
ALTHOUGH, IT MAY HAVE GOOD  
INTENTIONS THE UNINTENDED  
CONSEQUENCES ARE SO GRAVE  
THAT THEY WILL BE ABUSED BY  
THE CORPORATIONS AND THE  
PRODUCT LIABILITY REALM IN  
ANY TRADE SECRET REALM SO WE  
OPPOSE IT, YOUR HONOR.

>> WE UNDERSTAND IT WAS NOT  
DESIGNED FOR THESE KINDS OF  
ISSUES THAT IS NOT WHAT WE  
ARE REALLY TALKING ABOUT?  
THANK YOU FOR BRINGING THAT  
TO OUR ATTENTION, YOUR  
HONOR.

>> YES, YOUR HONOR.

>> THANK YOU.

>> THANK YOU.

THANK YOU VERY MUCH.

OKAY.

MISS LOCICERO.

>> YES, MISS CAROL LOCICERO  
ON BOW HALF OF TELEVISION AN  
NEWSPAPERS IN FLORIDA.

BECAUSE WE DEAL OFTEN WITH  
THE MOTIONS TO SEAL, I THINK  
IT MAY BE HELPFUL IF GOY  
THROUGH THE PROCESS OF AT  
LEAST OUR EXPERIENCE IN HOW  
THIS NORMALLY OCCURS.

NORMALLY THERE IS A MOTION  
TO SEAL FILES AND PERMITTED  
UNDER THE RULE AN UNDER THE  
CASE LAW PRIOR TO ANYTHING  
THAT THE COMMITTEE HAS DONE,  
SO THIS HAS BEEN SOMETHING  
THAT HAS BEEN GOING ON FOR  
DECADES.

THE MOTION NORMALLY DOES NOT  
SPECIFICALLY LAYOUT IN GREAT  
DETAIL EXACTLY WHAT THE  
REASON FOR CLOSURE IS AND WE  
ARE OFTEN ARGUING IN THE  
BLIND WHEN WE GO IN  
REPRESENTING THE MEDIA ON  
OPPOSING A MOTION TO SEAL.

OFTEN, PARTICULARLY WHEN THE PARTIES ARE SAVVY OR IN HIGH-PROFILE CASE WHICH US THE KINDS OF CASES THAT NORMALLY DRAW THE MEDIA TO PR PIS TATE IN THESE PROCEED DOOTION IN THE FIRST PLACE, THAT UNDERLYING DOCUMENT IS NOT YET FILED, SO IT IS NOT IN THE COURT FILE.

BUT OFTEN WHAT DOES HAP PINS THE COURT WILL HAVE AN IN-CAMERA REVIEW WITHOUT THE PARTIES PRESENT, SO THERE ARE NOT EX PARTE PROCEED DOING ISSUE, THE COURT IN CHAMBERS WILL REVIEW THE DOCUMENT SUBMIT IT ON THE HEARING.

DETERMINE WHETHER OR NOT AFTER THE HEARING, THE HEARING ARGUMENTS OF COUNSEL, WHATEVER IS PRESENTED IN THE MOTION, LOOKING AT THE UNDERLYING RECORD ITSELF, WHETHER THERE IS A BASIS UNDER BARREN OR LEWIS FOR SEALING THE RECORD.

I THINK THE UNIVERSE OF CASES THAT ARE FILED, THE UNIVERSE OF CASES WHERE MOTIONS TO SEAL ARE FILED MUCH, MUCH SMALLER, THEN THE UNIVERSE OF CASES WHERE TO MOTIONS TO VACATE ARE FILED AFTER CLOSURE ORDER IS IN ENTERED IS EXTREMELY TINY, I MEAN, OUR FIRM FILES MAYBE ONE SUCH MOTION TO VACATE EVERY COUPLE OF YEARS.

IT IS NOT A HUGE BURDEN TON HAVE A HEARING ON THOSE MOTIONS TO VACATE.

WITH RESPECT TOP THE PROPOSED RULE ITSELF, WE BELIEVE THAT THE RULE DOES A LOT TO ADDRESS THE PROBLEM WITH CLERK'S OFFICES NOT UNDERSTANDING WHAT WAS CLOSED WHICH WAS A BIG PROBLEM WITH THE SUPER SEALERS IN OUR STATE.

BUT OUR CONCERN IS A CONCERN THAT HAS BEEN DISCUSSED THIS

MORNING ABOUT AGREED MOTIONS, THAT ARE NOT TESTED BY HEARING WHERE THERE IS NOT PUBLIC NOTICE AND WHERE THERE IS A CLOSURE ORDER ENTERED, THAT WE DON'T BELIEVE THAT THAT KIND OF A PROSPECT HONORS LEWIS OR BARRON WHICH PUT AS HEAVY BURDEN ON THE PROPOTENT OF CLOSURE IN TO OBTAIN CLOSURE ORDER.

>> BUT I YOU HAVE SAY RIGHT NEW COULD HAPPEN? YOU WERE TALKING ABOUT THAT, WHAT I AM HEARING, THE PROBLEM OCCURRED BECAUSE IN SOME SITUATION, THE CLERK'S OFFICE WAS SEALING MORE THAN NECESSARY, BUNDLER THE PRESENT RULES AND AGREED UPON ORDER COULD BE SUBMITTED SO HOW IS IT, ISN'T IT AN IMPROVEMENT FROM WHAT EXISTED?

>> WELL, IT COULD HAPPEN. DON'T KNOW THAT, I AM NOT CONVINCED IT IS AN YOU IMPROVEMENT BECAUSE IT REALLY JUST KIND OF CODIFIES THE SAME PROCESS THAT LED TO PROBLEMS OCCURRING IN THE FUTURE.

YES, THE ORDER MAY BE UNDER THE RULE, UNDER THE PROPOSED RULE MAY BE MORE DETAILED, BUT AGAIN, WE ARE CONCERNED THAT IT IS ALMOST A BLUEPRINT FOR SAYING HOW TO CLOSE, CLOSE THE ORDER WITH PRESUMPTION OF CORRECTNESS, WHEN IN FACT, THERE HAS NEVER BEEN A TESTING IN THE FIRST PLACE, TO SAY THE PARTIES CAN DO THAT, THAT THIRD PARTIES TO THE PROCEEDING ARE NOT AS IMPORTANT ON CLOSING ISSUES THAT THE SORT OF UNDERLYING PRESUMPTION, I BELIEVE, OF THE COMMITTEE, IGNORES THE STRICT STANDARDS OF LEWIS AN BARRON ON THE FACT THAT THE MEDIA HAS OFTEN SERVED AS A SURROGATE

FOR THE PUBLIC, THE MEDIA IS OF CONTINUE THE ONE THAT IS MOST VERSED IN THE CASE LAW RELEVANT TO THESE CLOSURE ISSUE AND WILL PRESENT THE SHURBS ISSUES OF THE PUBLIC UNDER THE CASE LAW AND ALL LIKELIHOOD MORE EFFECTIVELY THAN THE PARTIES THAT JUST ROUTINELY NOT BECAUSE THEY DON'T WANT TO BUT THEY DON'T DEAL WITH THESE ISSUES AS MUCH AS THE MEDIA DO.

>> WHAT IS YOUR PROPOSAL FOR PUBLIC NOTICE?

>> YOUR HONOR, WE HAVE TRIED TO BE REASONABLE EVEN THOUGH WE'RE NOT OFTEN PERCEIVED AS BEING REASONABLE.

WE WROTE THE COMMITTEE ABOUT PUBLIC AND OUR CONCERNS ABOUT PUBLIC NOTICE WHEN WE GOT DOWN TO FILING THE COMMENT.

WE ATTEMPTED TO PROPOSE A SYSTEM THAT WAS NOT PRACTICAL, WE DID NOT ACT SK FOR PRIOR PUBLIC NOTICE ON EVERY MOTION TO SEAL AND PERFECT WORLD, WE WOULD, OF COURSE, HAVE, THAT WE ARE CONCERNED ABOUT THE PUBLIC NOTICE PROVISIONS IN THE RULE BECAUSE WE DON'T THINK THEY GO FAR ENOUGH.

THEY SHOULD, THAT WHEN A CLOSURE ORDER IS EN ENTERED IT SHOULD BE UP LONGER ON THE COURT'S WEB SITE AND WE PROPOSE THAT THERE BE A LINK SIMILAR TO THE COURT'S HOME PAGE THAT GETS YOU FROM THE HOME PAGE INTO THE RISK OF CLOSURE ORDERS TENERED TO SO YOU CAN FINE THOSE ORDERS MORE EASILY THAN TRYING TO GO BACK TO SEARCH INDIVIDUALLY IN A CASE ALTHOUGH THEY SHOULD OBVIOUSLY BE IN PROGRESS DOCKET FOR INDIVIDUAL CASE, BUT WE HAVEN'T PUSHED HARD FOR PRIOR PUBLIC NOTICE THAT WE THINK THAT IS IMPORTANT,

WE TRY TO, OUR PROPOSED RULE ASKS FOR THE HEARING SHOULD BE CONDUCTED BEFORE IN ALL CASES BEFORE THE MOTIONS TO SEAL ARE GRANTED, BUT OUR PRIMARY CONCERN HAS BEEN THE GOOD CAUSE STANDARD THAT IS IMPOSED AS CLOSURE ORDERS ARE ENTERED AND THE BURDEN OF PROOF, OFTEN, IT IS ON THE MOTION TO VACATION WHERE THE FIRST TRUE TESTING OF WHETHER A CLOSURES APPROPRIATE OCCURS.

>> WOULD YOU TELL EXACTLY WHAT IT THAT IS YOU WANT.

YOU

>> FOR NOTICE?

>> WHAT ONE SENTENCE WOULD YOU SAY YOU WANT ADED TO TO RULE THAT PROTECTS AS YOU HAVE REQUESTED?

>> WELL, THE DE NOVO HEARINGS ON MOTIONS TO VACATE, THE BURDEN OF PROOF, WE ASKED FOR EXPEDITED HEARING PROVISIONS WHICH WE THINK WOULD HELP A LOT. SO THANK YOU VERY MUCH. THANK YOU.

>> THANK YOU VERY MUCH.

>>> MR. MORRISON.

>> GOOD MORNING.

>> GOOD MORNING.

ON BEHALF OF THE COURT OF PUBLIC DEFERNL, PLEASURE TO BE BACK BEFORE THE COURT. THE ASSOCIATION IS ONE OF THE FEW ORGANIZERS THAT HAVE CLIENT ON BOTH SIDES OF THIS, WE HAVE CLIENTS WHO ARE INFORM NANLTS WHO VERY MUCH WANT THINGS SEALED WE HAVE CLIENTS WHO ARE RESTED ON THE CASE AND NEED TO DO AN INVESTIGATION TO FIND OUT WHAT THE WITNESSES, WHAT THE PEOPLE AROUND AND WHAT HAPPENED THAT WAY.

WE BELIEVE THAT THE INTEREST CAN BE RESOLVED.

THERE IS A WAY TO SOLVE THESE, BUT YOU GOING TO REQUIRE EVERYBODY TO SIT

DOWN AT ONE TABLE AND HAMMER THIS OUT, THAT HAS NOT HAPPENED YET.

>> WELL NOW, THE PROPOTENT HAS SAID THAT THIS IS REALLY NOT GETTING INTO THOSE AREAS THAT ARE ALREADY PROTECTED BY SOME LAW.

>> YOUR HONOR, I WILL TRUST WHO I BELIEVE FOLLOWS ME TO MORE THOROUGHLY EXPLAIN WHY THE CA DOES NOT SOLVE THIS. IT DOES, THERE ARE SOME PROTECTIONS FOR IN IMPORTANT ANT STUFF BUT REALLY IF YOU SEE A PERSON WITH SERIOUS CHARGES AND A PLEA AGREEMENT AND OUT ON THE STREET, ONE PLUS ONE PLUS ONE IS CONFIDENTIAL AND THAT IS ALL OF IT.

>> WELL, WAIT, SO DOES, IS IT YOUR POSITION THAT THE RULE AS DRAFTED WOULD APPLY TO MOTIONS TO MAKE SURE THAT CONFIDENTIAL IN FOR NANTS REMAIN CONFIDENTIAL?

>> I AM NOT SURE.

THOSE -- I DON'T BELIEVE SO, YOUR HONOR.

IS THE PLEA AGREEMENT, YOUR HONOR, I AM SORRY.

I THIS IS SENTENCE.

IT IS THE SENTENCE THAT IS WHAT IS I BELIEVE

PROSECUTORS WANT TO SEAL. THEY WANT TO SEAL THE FACT THAT THIS CASE HAS BEEN RESOLVED.

THERE HAS BEEN A RESOLUTION.

>> THAT WOULD BE UNDER PRESENT RULE SNAG THAT WOULD BE UNDER THE PRESENT.

WHAT EXISTS NOW?

WHAT HAPPENS?

>> THE ONLY LAW I KNOW OF NOW IS THE PUBLIC RECORDS RULE.

>> THE PROSECUTOR, I MEAN, THIS PUBLIC DEFERN, THERE IS A PLEA DEAL.

YOU ARE TELLING ME THERE ARE PLEAS THAT ARE SEALED FROM PUBLIC, PE PUBLIC RECORD?

>> YOUR HONOR, WE HAVE QUITE A DISAGREEMENT ON THIS. THE BEST OF OUR KNOWLEDGE, WE DID NOT KNOW BEFORE THE ARTICLE CAME OUT ON NOVEMBER 18th, WHAT WAS HAPPENING. THAT THESE, THESE CASES WERE BEING SEALED.

THEY WERE BEINGED -- WE DID NOT KNOW THAT.

WE KNEW THE CONFIDENTIAL INFORMANTS THE POTENTIAL SYSTEMS AGREEMENT THAT WAS OBVIOUSLY BEING CLOSED BUT THE REST OF IT, THE FACT THAT THE RECORDS BEING CHANGED, WE DID NOT KNOW THAT.

IF THERE IS A PUBLIC DEFENDER IN MY OFFICE THAT KNEW THAT, THEY HAVE NOT COME FORWARD AFTER THAT ARTICLE.

AND WE HAVE TRIED OUR BEST TO FIGURE OUT.

WE DO NOT KNOW WHAT THE STATE IS DOING THESE ARE QUESTIONS.

>> SINCE THE COMMITTEE THOUGHT THEY WERE BASICALLY ADDRESSING CIVIL CASE, IT SOUNDS LIKE WE GOT A WHOLE OTHER WORLD OUT THERE OF THE CRIMINAL AREA, IT WOULD BE A GOOD IDEA TO SEPARATE AND SAY WHAT THIS RULE APPLIES, PUT INTO HE EFFECT FOR CIVIL, WHATEVER MODIFICATIONS AN REALLY GET EVERYONE SITTING DOWN AT THE TABLE TO FIGURE OUT THIS SITUATION.

>> IT MIGHT BE.

UNFORTUNATELY, THE CRIMINAL RULES COMMITTEE HAS FAST TRACKED THIS.

I BELIEVE HE RECEIVED A REPORT ON THURSDAY.

WE RECEIVED IT FRIDAY AFTERNOON.

THEY HAVE ADOPTED THE PROSECUTOR'S ASSOCIATION PROPOSAL.

WE FRANK DLI NOT KNOW ABOUT

THE FAST TRACK COMMITTEE  
PROPOSAL.

WE WERE NOT THERE.

WE WERE NOT AT THAT TABLE.

THEY WERE ABLE TO GO IN AND  
MAKE PRESENTATION.

WE WERE NOT.

FRANKLY, WE DON'T THINK THAT  
IS FAIR.

WE IMMEDIATE TO BE ABLE THIS  
TABLE, TOO.

>> WE WERE TO IN SOME WAY  
INDICATE BIRTH OF WAS  
MENTIONED THAT THIS WOULD BE  
SOMEONE LIMITATION NOW TO  
SOLVE THE PROBLEM WE'RE  
DEALING WITH.

THIS CAME TO LIGHT A COUPLE  
MONTHS AFTER THE FIRST RIVAL  
SO WE ARE WORKING ON ONE AND  
ANOTHER PROBLEM AT LEAST  
POTENTIAL PROBLEM AROSE.

SO IF WE WOULD THEN PUT SOME  
VERBAGE THAT WOULD INDICATE,  
THIS IS FOR CIVIL CASE, LET  
THE OTHER KES COMPLETE THEIR  
WORK, LOOK AT THIS WITH  
PARTICIPATION, WOULD THAT  
SOLVE THE PROBLEM WITH WHAT  
YOU ARE CONCERNED?

>> I BELIEVE THAT GETS MUCH  
CLOSER TO WHAT WE HAVE EATER  
WITH THE JUDICIAL  
ADMINISTRATION RULES  
COMMITTEE.

>> THEY WERE NOT INVOLVED IN  
THE PROCESS.

THEY WERE WORK ON IT.  
IN THE MIDDLE OF IT WHEN  
THIS OTHER ISSUE AROSE.

>> AND I THINK, I THINK THIS  
MAY, THAT GOES A LONG WAY TO  
GETTING UP TO THE TABLE.

WE CAN WORK SOMETHING OUT.

>> I AM SORRY DIDN'T MEAN TO  
INTERRUPT YOU.

>> I AM CONFUSED.

THE WAY I READ THE RULE AS  
PROPOSED SUBSECTION D THE  
TITLE SAYS THE REQUEST CIVIL  
COURT RECORDS.

AIM WRONG?

EYE DON'T KNOW.

NO, YOUR HONOR, I ASSUME YOU

CAN READ ENGLISH.

>> MAYBE YOU HAVE A WRONG COPY?

>> NO, ASUM.

THIS IS THE ONLY, THIS IS THE ONLY RULE, THE ONLY SPREAD DURE OUT THERE FOR THOUSAND DO THIS.

IF THIS IS, IF IT IS NOT, IF THIS PROCEDURE DOESN'T COVER IT, THEN WHAT WE VIS A NO LAW SITUATION.

THAT IS WHAT WE HAVE BEFORE. WHERE QUITE FRANKLY, THE POSSIBLE DEVELOPER IS DOING THINGS THAT QUITE HONESTLY, WE DID NOT KNOW ABOUT. I KNOW THEY BELIEVE WE KNEW ABOUT IT.

>> MAYBE A DATE FOR THAT DEBATE.

IT WAS READ TO YOU. THAT SATISFIEDS YOUR CONCERNS.

>> IF THE, IF THIS DOES IN THE APPLY TO CRIMINAL, IT SATISFIES THE CONCERNS THAT I WOULD RESPECT THE COURT SEND A LETTER BACK TO THE CRIMINAL RULES COMMITTEE IF THAT IS WHERE IT IS GOING TO BE HELD SAYING WE HAVE GOT TO HAVE THIS WITH EVERYBODY AT THE TABLE.

THIS SIMPLY CANNOT BE JUST

--

>> CRIMINAL RULES COMMITTEE WOULD NOT HAVE PUBLIC DEFENDERS INVOLVED.

>> YOUR HONOR, ALL CAN I TELL IS WE DID NOT KNOW ABOUT THIS PROCESS.

I KNOW THIS COMMITTEE HEARD ON FEBRUARY 6th THAT AFTER WE HAD COME MENS NO ONE CONTACTED.

I DON'T KNOW HOW THAT HAPPENED.

I WISH I DID.

>> OKAY.

>> GOOD MORNING, YOUR HONOR. MATE PLEASE THE COURT, I CYST ANT STATE ATTORNEY IN THE 11th JUDICIAL CIRCUIT

ALONG WITH ARTHUR JK OBS  
GENERAL COUNSEL FOR THE  
ATTORNEYS ASSOCIATION.  
>> IF CUE HELP US WITH THE  
SITUATION, THE CONFIDENTIAL  
INFORMANT VERSUS THE PLEA  
AGREEMENT VERSUS WHERE THERE  
IS A REQUEST TO EXPUNGE WHAT  
DO PROSECUTORS POSITION IS  
ON EACH OF THOSE THREE  
AREAS.

>> LET ME START.  
THE REQUEST DOESN'T INVOLVE  
ANY CASES WHERE THEY NEED  
REQUIRE THIS.  
IT IS NOT REALLY OUR  
SITUATION.  
THAT IS GOVERNED BY THE A  
SEPARATE RULE.

>> AND A STATUTE.

>> CORRECT.

>> THAT IS NOT OUR ISSUE  
HERE.

>> THE PROPOSED RULE IN  
SUBSECTION 2, SAYS REQUEST  
TO SEAL OR EX PUNG SHALL  
PROCEED ON THE RULE.

>> THAT IS CORRECT, YOUR  
HONOR.

>> BASICALLY WHAT HAPPENS IN  
11th JUDICIAL CIRCUIT, THAT  
IS WHAT I SPEAK OF.

THE OTHER SIR KITS AS WELL  
WHAT HAPPENS IN CASE  
INVOLVING ONGOING CRIMINAL  
INVESTIGATION WE HAVE TO  
UNDERSTAND, WE ARE NOT JUST  
TALKING ABOUT A CONFIDENTIAL  
INFORM ANT, WE ARE TAUING  
ABOUT UNDERCOVER POLICE  
OFFICERS WHO WORK WITH THESE  
CONFIDENTIAL INFORMANTS SO  
THEIR LIVES ARE AT STAKE AS  
WELL AS THE CONFIDENTIAL  
INFORM ANT'S LIFE IS AT  
STAKE.

WHAT HAPPENS IS, THEY COME  
TO AN AGREEMENT, THESE ARE  
NOT EX PAR HE PROCEEDING  
THERE IS A DEFENSE ATTORNEY  
PRESENT SOMETIME AS PRIVATE  
ATTORNEY, YOU SOMETIME AS  
SPECIALLY PINTED PUBLIC  
OFFENDER AND WHAT THEY DO IS

THEY COME TO AN AGREEMENT AS TO  
THOUSAND DEFENDANT CAN HELP  
LAW ENFORCEMENT BY GOING  
USUALLY BACK TO THE  
COMMITTEE DOING SOME KIND OF  
SUBSTANTIAL ASSISTANCE OR  
OTHER TYPE OF UNDERCOVER  
WORK WITH THE OFFICER TO  
HELP CRIME.

I THINK, YOUR HONORS ARE  
QUITE AWARE TODAY'S CRIMINAL  
ORGANIZATIONS HAVE GONE  
SOPHISTICATED WHICH IS ONE  
OF THE REASONS WHY I GAVE A  
COPY TO GIVE YOU AN IDEA OF  
WHERE THEY ARE & HOW EASY IT  
IS FOR THEM TO NOT ONLY SAY  
WHO IS UNDERCOVER OFFICER  
BECAUSE THEIR PICTURES ARE  
ALSO PUT ON THAT WEB SITE,  
SO THIS IS VERY, VERY  
IMPORTANT TO LAW ENFORCEMENT  
TO MAKE SURE NOT ONLY ARE  
THEY PROTECTED AN INFORMANTS  
ARE PROTECTED AS WELL.

WE BASICALLY GO IN WITH THE  
JUDGE TO TELL THE JUDGE WE  
HAVE COME TO AN AGREEMENT.  
THIS IS WHAT THIS PARTICULAR  
DEFENDANT NEEDS TO DO IN  
ORDER TO GET A CERTAIN TYPE  
OF SENTENCE AND IT IS  
USUALLY THE SENTENCES  
DEPENDENT ON WHAT TYPE OF  
AGREEMENT, WHAT KIND OF COMP  
OPERATION AND THE RESULT OF  
THAT CORPORATION.

AFTER THAT HAPPENS IS THERE  
IS REPORTED ON THE DOCKET  
STATUS.

IT SAYS NOTHING MORE THAN  
THAT.

THIS PARTICULAR DEFENDANT  
HAS NOT BEEN SENTENCED.  
THAT IS WHAT THE PUBLIC  
DEFENDER'S OFFICE IS  
INCORRECT ABOUT.

THIS PERSON HAS NOT BEEN  
SENTENCED THEY HAVE TAKEN A  
PLEA, THEY HAVE AGREED TO  
PLEA.

THE COURT HAS ACCEPTED THE  
PLEA, THAT HE IS NOT, HE-SHE  
HAS NOT YET BEEN SENTENCED

BECAUSE THAT SENTENCE IS  
VERY MUCH DEPENDENT ON HOW  
THE CORPORATION IS.  
THEY GO OUT TO THE  
COMMUNITY, THEY DO WHATEVER  
THEY NEED TO DO, THEN THERE  
IS A STATUS, IT IS SET BACK,  
IT US USUALLY A COUPLE  
MONTHS, WE ARE NOT TALKING  
ABOUT A VERY LONG PERIOD OF  
TIME, IT IS URBBLY 2 TO 4 TO  
6 MONS, THAT IS THE AVERAGE.  
ALSO I WANT THE COURT TO  
UNDERSTAND, WE ARE TALKING  
ABOUT FEW CASE, I HAVE  
HUNDREDS OF THOUSANDS OF  
CASES THAT WE FILE IN  
MIAMI-DADE COUNTY, THEY ARE  
TALKING ABOUT NO MORE THAN A  
DOZEN A YEAR.

PROBABLY LESS.

EYE GUESS THE QUESTION IS  
WHAT REALLY COMES BACK TO  
THE SENTENCING AFTER THE  
SUBSTACKS, I THOUGHT THEIR  
PROBLEM THAT IS THE SENTENCE  
THAT IS NOW IMPOSED IS NOW  
OF DEN?

>> NO.

ABSOLUTELY NOT.

THEY ARE 10% WRONG.

AT THAT COURT, ONCE THEY ARE  
SENTENCED, THAT BECOMES  
PUBLIC RECORD.

THE DOCK RECEIPT REFREKS.

IT FLECTS THE PLEA.

IT REFLECTS THE SENTENCE.

EVERYTHING IS PUT BACK ON  
THE DOCKET THAT IS KEPT.

IT IS TEMPORARY SEALING.

I CAN NOT STRESS THE WORD  
TEMPORARY MORE.

IT IS VERY TEMPORARY TIME  
PERIOD THAT THIS PROCEDURE  
IS KEPT OFF THE PUBLIC  
DOCKET.

IT NEEDS TO BE KEPT OFF THE  
PUBLIC.

THERE IS NO OTHER  
ALTERNATIVE.

WE DON'T HAVE PROCEDURE PER  
SE TO GET INTO THIS DOING  
THIS?

WE REALLY HAVEN'T.

WHAT WE HAVE DONE SUNS THE  
RULE CAME OUT, YOU KNOW, WE  
KIND OF LIKE THE IDEA AND I  
THINK THE PUBLIC WOULD  
APPRECIATE THE IDEA IF WE  
FILE A FORM IN MOTION TO  
KIND OF FILING THE WAY THE  
RULE IS SETTING FORTH OUR  
REASONS GIVING IT TO THE  
COURT AND THE COURT THAT  
GIVES FORTH THOSE REASONS SO  
WHEN IT IS OPEN LATER ON,  
EVERYBODY CAN SEE HOW THEIR  
GOVERNMENT WORKED.

AND SO WE HAD NO PROBLEM  
UNDER CA OR C 9 WHICHEVER  
PROVISION WE WANT TO GO, WE  
ARE DOING THAT NOW.

WE'RE FILING MOTIONS, WE ARE  
HAVING, THE COURTS ARE  
ENTERING ORDERS.

FRANKLY BEFORE THIS CAME  
OUT.

HA WAS NOT BEING DONE.

YOU ARE SAYING THIS WOULD  
ACTUALLY THEN EVERYTHING  
WOULD BE OPEN AT THE TIME OF  
THE SENTENCE?

THAT IS THAT THE PUBLIC  
WOULD KNOW THAT THIS PERSON  
HAD GIVEN SUBSTANTIAL  
ASSISTANCE AND UNDERCOVER  
PERSON WAS AND ALL OF THAT.

>> AS WAS RIGHT NOW, WHAT IS  
THE REASON?

THE ACTUAL TERMS OF THE  
AGREEMENT MAY BE KEPT  
CONFIDENTIAL, CERTAINLY IF  
THE PERSON WAS CONVICTED  
GIVEN A SENTENCE, YES, THAT  
IS NU ON THE PUBLIC DOCKET  
AS OF NOW.

>> HOW DO YOU DO THAT ALSO?

>> ISN'T THERE A DANGER?

I MEAN, IF THE DANGER  
EXISTED BEFORE, THEN IF THAT  
IS DISCLOSED LATER, DOESN'T  
THAT OPEN UP THAT SAME RISK  
AGAIN TO THE SAME PEOPLE?

>> IT DOES TO A CERTAIN  
POINT.

THIS IS HOW IT WORKS,  
ACTUALLY, YOUR COURT'S  
CONSIDERATION IS SOMETHING

WE NEED TO CONSIDER I THINK  
THE FEDERAL GOVERNMENT ALSO  
SHOULD.

THE FACT IT DOES REMAIN A  
DOCKET CAN BE A PROBLEM AS  
WELL.

WE ACTUALLY, SOMETHING WE  
NEED TO RECONSIDER AS WELL.  
WE WERE JUST TRYING AT THIS  
POINT BECAUSE THERE WAS NO  
CRIMINAL RULE PROCEDURE  
GOVERNING THIS.

I BASS AFRAID WHEN YOU HAD  
THIS JUDICIAL RULE, THEN THE  
VERY OWN CONCERN, WITH IT A  
MINUTE, YOU HAVE TO FILE THE  
JUDICIAL RULE, WHICH IS A  
REASON WHY WE PROPOSE THIS  
LITTLE SMALL PROVISION FOR  
THE CRIMINAL RULE, WHY IT IS  
SO IMPORTANT THAT WE DO  
THAT.

>> JUST REAL QUICK.

CHAPTER 11907 SAYS ANY  
INFORMATION REVEALING THE  
IDENTITY OF CONFIDENTIAL  
INFORMANT OR SOURCE EXEMPT  
FROM THIS.

WHY DOESN'T THAT PROTECT  
UNDER CA?

>> WELL IT DOES PROTECT US  
AS FAR AS KEEPING IT SEALED  
BUT GAIN SOMETIMES THINGS  
ARE HAVE TO GO UNDER.

I GUESS PART OF IT THINKING  
WE WOULD LIKE TO BE OPEN AS  
WE CAN WITHOUT HURTING  
INFORMANTS WITHOUT HURTING  
THE VERY, WE WANT THE PUBLIC  
TO KNOW WHAT WE ARE DOING.  
WE ARE NOT TRYING TO HIDE  
ANYTHING LATER ON.

I THINK THE PUBLIC HAS A  
RIGHT TO KNOW WHAT HAPPENED  
IN THE INVESTIGATION.

WHY IT WENT DOWN THAT  
PARTICULAR ROUTE.

THANK YOU, YOUR HONOR.

>> THANK YOU VERY AM.

>> JUDGE KREEGER.

>> YOUR HONOR.

GOOD MORNING.

GOOD MORNING, COUNSEL.

I AM HERE ON BEHALF OF THE

SUPREME COURT COMMITTEE ON  
ACCESS TO PUBLIC RECORDS, I  
WOULD LIKE TO DROP BACK IF  
YOU WILL.

LAST SUMMER, THIS COURT  
PUNCHED OUT BUNCH OF WORK AS  
PART OF THE OVERALL  
TRANSITION TO DIGITAL  
FILINGS AND RECORD KEEPING  
AN ACCESS TO COURT RECORDS.  
AND AS PART OF THAT BIG  
OVERALL STRUCTURE, YOU  
COMMITTED THE COMMITTEE THAT  
I NOW CHAIR.

YOU PRICED OUT A GREAT DEAL  
OF WORK WITH REGARD TO RULE  
2.420 TO OUR COMMITTEE.  
YOU GAVE US SOME OTHER WORK,  
TOO, THAT HAD SHORTER  
TURNAROUND DAY, SO WE TRIED  
TO DO THAT FIRST.

I THINK WE DID.

NOW, WE ARE FULL STEAM AHEAD  
ON THIS RULE.

OUR COMMITTEE IS RATH  
REMEMBER MALL.

IT IS 13 MEMBERS.

BUT IT IS RATH REMEMBER  
INCLUSIVE.

WE HAVE CLERKS.

WE HAVE COURT  
ADMINISTRATION.

WE HAVE TRIAL JUDGES.

WE HAVE AN APPEAL JUDGE,

WE HAVE LAWYERS.

TO THE EXTENT THAT THE  
VIEWPOINTS ARE NOT REPRESENTED  
BY THE MEMBERSHIP ON THE  
COMMITTEE, I CREATED SOME  
DRAFT CHOICES AND BROUGHT  
THEM IN TO WORK GROUPS  
STRUCTURED TO HANDLE THE  
COMMITTEE WORKS THEN AN  
ATTEMPT TO GET THE KIND OF  
OUTREACH THAT IN THIS IS NO  
TO THE RULES OF JUDICIAL  
ADMINISTRATION COMMITTEE  
THEY WORK QUICKLY, BUT WE  
WERE TRYING TO GET A MUCH  
BROADER INPUT BECAUSE THE  
WAY THAT YOUR COMMITTEE  
PROCESS WORKS AS YOU VERY  
WELL KNOW IS IT IS A  
COLLABORATIVE EFFORT THAT

TAKES TIME AND THAT TAKES  
OUTREACH.

SO WE WERE TRYING TO DO  
THIS.

SO OUR WORK IS VERY MUCH  
ONGOING.

IN THE COMMENTS WE SAW WITH  
THE COURT, THERE WERE  
PRINCIPALS THAT WE AGREED TO  
AS OUR BASIC STARTING POINT.

I DON'T THINK I NEED TO  
ELABORATE THEM HERE.

YOU HAVE THEM IN THE BRIEF.

>> JUSTICE KREEGER, YOU SAID  
THAT THIS WORKS ONGOING.

OBVIOUSLY, THIS ISSUE CAME  
UP WITH THE SUPER SEALING AN  
IT CAUSED THE CHIEF AND THE  
COURT A GREAT CONCERN.

ARE WE RUSHING THIS THROUGH  
TOO MUCH?

>> YES, MA'AM.

>> WITH ALL DO RESPECT.

>> WHEN THE ISSUE CAME UP  
THIS FALL, THE CHIEF JUSTICE  
SENT A LETTER TO EVERY CHIEF  
JUDGE IN THE STATED AND SAID  
BASICALLY DO SOMETHING.  
BY AN ADMINISTRATIVE ORDER,  
I HAVE SEEN A NUMBER OF  
THOSE ADMINISTRATIVE ORDERS,  
THE CHIEF JUDGES HAVE  
RESPONDED TO THE CHIEF'S  
REQUEST AND I THINK THAT  
SOMETHING THAT NEEDED TO BE  
DONE WITH REGARD TO THE  
DISCREET ISSUE OF THOSE  
RELATIVELY FEW SUPER SEALED  
CASES WHICH IS NOT TO  
MINIMIZE THEIR IMPORTANCE  
BUT I THINK THE QUICK FIX  
THAT WAS NEEDED HAS BEEN  
DONE.

WE CERTAINLY HAVE NOT READ  
ANYTHING IN RECENT MONTHS  
ABOUT NEWLY DISCOVERED MORE  
SUPER SEALER CASES.

THAT IS WHY KRB --

>> THIS IS A CAVES SOME  
COURTS JUST NOT FOLLOWING  
THE RULES THAT WERE ALREADY  
IN PLACE.

NEW RULES REQUIRED.

>> THEY WERE KIND OF

EXTRAORDINARY.  
I MEAN MY PERCEPTION.  
I AM NOT SPEAKING FOR MY  
COMMITTEE.  
MY PERCEPTION WAS THERE WAS  
A LOT OF FINGER-POINTING.  
THE CHIEF IS GOING, NO, IT  
IS THE COURT.  
AND HOW IT HAPPENED WE DON'T  
KNOW.  
THAT IT NOT HAPPEN AGAIN IS  
CERTAINLY VERY IMPORTANT.  
I THINK FOR THE NEAR FUTURE  
THAT THINK ADMINISTRATION IT  
ORDERS THAT ARE NOW IN PLACE  
THAT WERE NOT IN PLACE LAST  
SUMMER ARE TAKING CARE OF  
THAT.  
AND SO MY -- WHAT IS YOUR  
CONCERN IF THE COURT ORDER  
ADOPT THE RULE, HOW WILL IT  
EFFECT WHAT THE COMMITTEE IS  
DOING?

>> OKAY.

NUMBER ONE THAT IS IN  
ADOPTING PROVISIONAL  
MEASURES THAT ARE DONE KIND  
OF QUICKLY OUR CONCERN IS  
THAT THOSE THINGS SOMETIMES  
END UP BEING CAST IN STONE  
AND THEY ARE HARD TO CHANGE.  
NUMBER TWO IS THAT PRECISELY  
WHAT YOU POINTED OUT IN YOUR  
QUESTIONS IN YOUR QUESTIONS  
TO PRIOR COUNSEL IS THAT  
SOME DISCREET THINGS ARE  
BEING ADDRESSED, MECHANISM  
IS BEING CREATED BUT WITHOUT  
DOING THE BIG PICTURE WORK  
THAT NEEDS TO BE DONE.

WITH REGARD TO ALL CASE  
TYPE, NOW FOR EX ALE PEL,  
WHEN THIS RECENT FLAP CAME  
UP ABOUT THE CONFIDENTIAL  
INFORMANT, THIS WAS ONLY THE  
PAST FEW WEEKS.

I CALLED THE PUBLIC DEFENDER  
FOR MY CIRCUIT THE 11th AND  
ASKED HIM TO PLEASE COME TO  
THE TABLE, I CALLED THE  
STATE TORN'S OFFICE AND SAID  
COME TO THE TABLE.

THE STATE ATTORNEY OFFICE  
DID PROVIDE US INPUT AT THE

LAST MEETING BUT THE PUBLIC DEFENDER'S OFFICE I AM SURE WORKLOAD ISSUES DIDN'T BUT WE WANT TO BRING THEM INTO THE DISCUSSION.

WE ARE TRYING TO GET ALL OF THE OUTREACH THAT WE CAN AT THE SAME TIME ANOTHER PART OF MY COMMITTEE'S TASK IS VERY IMPORTANT TO THE WORK AND THAT IS REREGARD THOUGH C 8 AND THE C 9 INFORMATION THAT YOU ALL HAVE BEEN TALKING ABOUT.

PART OF THE CHARGE TO OUR COMMITTEE IS DEALS WITH CLASSIFYING INFORMATION AND WE HAVE THE UNIVERSITY OF FLORIDA JOHN MILL'S GROUP AT WORK TRYING, WORKING ON, SORTING OUT THE KINDS OF INFORMATION BECAUSE ULTIMATELY WE BELIEVE THAT RULES SHOULD ADDRESS THE RESPONSIBILITY OF CLERKS, THE RESPONSIBILITY OF FILER, THE RESPONSIBILITY OF THE COURT, UM, AND THEIR --

>> IS THE FOURTH CATEGORY OF RESPONDERS?

PARDON ME.

I HAVE LOST IT.

>> THE FILERS, THE COURT, THE THIRD PERSON, IL AM SORRY, NON-PARTIES AN THAT MAY DEPEND ON THE TYPE OF INFORMATION THAT IT IS.

AS YOU VERY WELL KNOW, THERE IS MORE THAN 1,000 TYPES OF PROTECTED INFORMATION IN THE FLORIDA STATUTES BUT THERE THIS IS WHOLE QUESTION ABOUT WHETHER THAT INFORMATION IS PROTECTED WHEN IT IS IN THE COURT RECORDS, WHETHER THAT INFORMATION SHOULD A CLERK BE REQUIRED.

>> YOUR BOTTOM LINE, I TAKE IT, IF WE ARE GOING DO IT, DO IT RIGHT, DO IT COMPREHENSIVELY.

YOU SAID IT BETTER THAN I COULD, SIR.

THAT IS PRECISELY OUR

REQUEST.

WE ARE DUE TO REPORT TO YOU  
A YEAR FROM JUNE WITH THE  
FINAL REPORT.

THIS COMING JUNE ON AN  
INTERIM REPORT.

I HAVE EVERY REASON TO  
BELIEVE THAT WE'LL BE ABLE  
TO MEET THE DEADLINE, WE ARE  
HARD AT WORK.

WE WANT TO KEEP DOING IT.

I DIDN'T THINK YOUR  
COMMITTEE WAS CHARGED WITH  
SPRO PROCEDURE FOR HOW CASES  
GOT SEALED.

I AM STILL TRYING TO UNDER  
UNDERSTAND, YET, I AM  
CONCERNED BECAUSE OF SOME  
OTHER COME MINTS ABOUT HOW  
IT EFFECTS CASES THAT WE  
NEVER INTENDED TO EFFECT BUT  
OUR ARE YOU THEN GOING TO  
LOOK AT THIS PARTICULAR RULE  
AND MAKE OTHER SUGGESTIONS  
ON THE RULES THAT THE RULES  
OF JUDICIAL ADMINISTRATION  
COMMITTEE HAS PROPOSED?

>> AS I UNDERSTAND THE RULE,  
THE 0.2051, IT DOESN'T JUST  
ADDRESS A DISCREET PIECE OF  
INFORMATION THAT SOMEBODY  
WANTS TO CLIMB AS  
CONFIDENTIAL OR EX ENT OR  
THAT IS CONFIDENTIAL OR  
EXEMPT BUT IT IS THE WHOLE  
THING.

I DON'T -- I DON'T THINK --

>> I AM HAVING TROUBLE  
BECAUSE IT SOUNDS AS THOUGH  
YOU ARE DOING SOME REAL GOOD  
DETAILED KIND OF WORK.

AS I LOOK AT WHAT HAS BEEN  
PROPOSED, IT IS REALLY A  
STRUCTURE WITHIN WHICH  
WHATEVER IT IS THAT YOU ARE  
GOING TO DECIDE IS TO BE  
PLACED.

SO THAT NOW WE MAY HAVE SOME  
ADMINISTRATIVE ORDERS BUT IN  
THE ALL OF THE SAME  
THROUGHOUT THE STATE AND  
THERE SOME THAT ARE STILL  
JUST COMING IN ALSO.

I AM WONDERING WHY IS NOT

JUST A PROCEDURE POSTURE AT LEAST TO CARRY US OVER UNTIL WE GET MORE DEFINITIVE THINGS RATHER THAN LEAVING THIS TO BE WHATEVER IT IS BECAUSE WE KNOW THAT IS THE PROBLEM.

>> TO ME, IT IS PUTTING THE CART BEFORE THE HORSE WITH ALL DUE RESPECT.

>> TO HAVE IT IN PLACE?

>> NO, NO.

IS THE MECHANISM BUT WITHOUT REALLY GETTING TO CARVING OUT WHO IS RESPONSIBILITY IS IT TO DO WHAT?

AND FRANKLY --

>> THIS CREATES, IT DOES CREATE A RESPONSIBILITY INITIALLY ON THE PARTY THAT WANTS SOMETHING TO BE CONFIDENTIAL?

>> I UNDERSTAND, BUT THERE IS CERTAIN CATEGORIES OF INFORMATION THAT IT MAY BE THE COURT'S RESPONSIBILITY OR THE COURT'S RESPONSIBILITY.

>> NOT ADDRESSED YET.

>> THAT IS CORRECT.

>> THE QUESTION COMES UP AS WE HAVE A PROBLEM BECAUSE PEOPLE ARE GOING IN, STIPULATING FOR CLOSING DOCUMENTS AN FOR WHATEVER REASON, LIKE YOU SAID, BECAUSE THERE IS MISUNDERSTANDING, SO WHY SHOULD WE LEAVE ON THIS MISUNDERSTANDING IN PLACE, NOT AT LEAST GET PROCEDURAL STRUCTURE AND IF WE NEED TO MAKE THIS WORK IN A DIFFERENT WAY, I AM AT A LOSS TO UNDERSTAND WHY WE DON'T NEED PROCEDURE, THAT IS WHAT PRODUCED THE MESS WE GOT INTO.

>> WELL, I DON'T THINK THAT PROCEDURE, I AM SPEAKING INDIVIDUALLY NOW, NOT ON BEHALF OF MY COMMITTEE, JUST MY OWN OBSERVATION. I DON'T THINK IF THE LACK OF

PROCEDURE INTO PLACE YOU AS  
ONE WF YOU ALL INDICATED,  
THINK IT WAS PEOPLE NOT  
FOLLOWING THE RULES AND IT  
IS NOT MY SPOT TO SAY WHO  
WAS NOT FOLLOWING, WHO WAS  
NOT DOING WHAT HE OR SHE WAS  
NOT SUPPOSED TO DO BUT  
SOMEBODY WAS DOING SOMETHING  
THEY WERE NOT SUPPOSED TO DO  
UNDER THE PRESENT STRUCTURE.  
AND THAT IS WHY I DON'T KNOW  
THAT QUITE OFFEN THE  
MECHANISMS VERY, VERY RAPIDLY  
DEALS WITH THAT PROBLEM.  
I THINK YOU HAVE DEALT WITH  
THAT PARTICULAR PROBLEM.  
WE WANT TO CREATE A  
MECHANISM, WE DON'T THINK --  
WE THINK THIS IS PREMATURE.  
NOW ON BEHALF OF MY  
COMMITTEE, WE DID NOT  
ADDRESS 25 POINTS OF  
PROVISIONS OF THE MECK NIM  
THAT MECHANISM THAT ARE  
PREVENTED BY THE RULES OF  
JUDICIAL ADMINISTRATION  
COMMITTEE BECAUSE WE HAVE A  
BROADER TASK AN  
SYSTEMICALLY, WE THOUGHT  
ORGANIZATIONALLY WE THOUGHT  
IT BETTER TO FIRST OF ALL  
MAKE SURE EVERYBODY ON THE  
COMMITTEE HAS SOME UND IR  
STANDING ABOUT THE LEGAL  
ISSUES  
THIS ALL FITS INTO THE \$\$COURT'S  
TRANSITION!!\$\$!!!!!!!!!!!!!!!!!!!!  
TRANSITION, INTO A DIGITAL  
AGE, BECAUSE THAT IS KIND OF  
WHAT BROUGHT ALL OF THIS TO  
THE SURFACE IS THIS MOVE FOR  
COURT RECORDS, TO GO OUT ON  
THE INTERNET.  
THAT IS WHAT BROUGHT NOT THE  
FALLS ABOUT THE SEALED RECORDS  
-- BUT THE SUMMER CREATION OF  
THE \$\$COMMITTEE'S WHICH WAS THE  
CONTINUATION OF THE \$\$COURT'S  
ONGOING -- MOVE TOWARDS  
DIGITALIZE\$\$!!!!ING COURT RECORDS  
THROUGH COMMITTEE STRUCTURE,  
SO, WE WERE DEALING WITH A  
BIGGER PICTURE AND WE THOUGHT

IT WAS MORE IMPORTANT TO UNDERSTAND THE BIGGER PICTURE, TO UNDERSTAND THE DIFFERENCE BETWEEN C8 AND C9 INFORMATION, WHICH IS SOMETHING WE ARE DEALING WITH, TO LOOK AT WHAT THE ELECTRONIC FILING COMMITTEE IS DOING, AND I BELIEVE THEY HAVE A REPORT THAT IS SOON PERCOLATING UP TO THE COURT BECAUSE THAT AFFECTS WHAT WE ARE DOING.

AND THEN, THEN COME BACK, WITH MECHANISM WITH REGARD TO WHAT WE CALL THE CLASS TWO OR TYPE TWO INFORMATION, WHERE IT IS A PARTY WHO IS MOVING TO SEOUL AND NOT SOMETHING THE COURT OR THE CLERKS ARE SUPPOSED TO DO AUTOMATICALLY!!\$\$!!!!!!!!!!!!!!!!!!!!!! AUTOMATICALLY.

>> THANK YOU VERY MUCH WITH OUR ASSISTANCE YOU'VE DOUBLED YOUR TIME.

SO --

>> THANK YOU VERY MUCH.

>> THANKS BEFORE WE CONCLUDE I WASN'T TO GIVE THE PANEL AN OPPORTUNITY TO ASK ANY GENERAL QUESTIONS, AND ALSO -- A COUPLE MINUTES -- GO AHEAD.,,,,

.  
>> VERY BRIEFLY, IN REBUTTAL YOUR HONOR AND I WILL RESPOND TO SEVERAL -- PROCEDURAL OBJECTIONS IN ORDER.

AS REGARDS TO THE OBJECTION, COMMITTEE FELT THAT IT WAS NECESSARY TO HAVE A PROCEDURE THAT ADDRESSED WHAT HAPPENS WHEN YOU NEED TO SEOUL SOMETHING ALREADY IN THE FILE, SOMETHING IS THAT IS NOT IN THE FILE TOMORROW BUT SITTING THERE NOW.

FOR INSTANCE IF YOUR OPPONENT ALREADY FILED SOMETHING YOU CONSIDER APPROPRIATE NEED TO CITY WE THOUGHT IT WAS NECESSARY TO HAVE THAT PROCEDURE, EVEN IF IT IMPOSED SLIGHT BURDEN ON THE CLERKS, AND AGAIN, THE FACC PROPOSAL THAT WE RECEIVED THE FIRST

INSTANCE STEPPED UPON  
THEMSELVES THAT BURDEN BECAUSE  
THEY RECOGNIZED THAT PROCEDURE  
AS WELL.

SECONDLY WITH REGARD TO WHAT  
HANDS WHEN YOU PUTT SOMETHING  
NEW IN THE FILE AS PRACTICAL  
MATTER LITIGANT ABOUT TO PUTT  
SOMETHING IN THE FILE THEY  
CONSIDER CONFIDENTIAL, IS  
GOING TO FILE IT IN ENVELOPED  
UP UNDER SEOL AING AS RESULT  
GOOD DAILY OF \$CLERK'S WORK  
DONE IN INITIAL INSTANCE  
FINALLY\$S!!!!ILY WITH ISSUE OF  
PUBLICATION OUR COMMITTEE  
CONSIDERED PUBLICATION  
EXPENSIVELY PUTTING BURDEN ON  
PRIVATE LITIGANTS TO GET NEWS  
ADS TO TALK ABOUT THE FACT A  
THAT IS ORDER ENTERED REJECT  
FORD A NUMBER OF REASONS FIRST  
OF ALL WE DON'T BELIEVE THERE  
IS STATUTORY OBJECT OBLIGATION  
HAS TO BE DONE THAT WAY I  
THINK THAT STATUTE ONLY  
APPLIES TO HOW ONE PUBLISHES  
WHERE EXISTING STATUE  
REQUIRING PUBLICATION,  
SECONDLY WE FELT THAT IF YOU  
PUT THAT KIND OF BURDEN ON  
LITIGANTS!!\$S!!!!!!!!!!!!!!!  
LITIGANTS, ATHEY MAY NOT BE  
ABLE TO AFFORD IT B, MORE  
CONCERN ARGUABLY US THE FACT  
THING MAY NOT DO IT.  
ULTIMATELY YOU MAY HAVE, NOT  
ENOUGH PUBLICATION, AND THE  
SYSTEM PROPOSING, GIVES THE  
CLERKS THE RESPONSIBILITY TO  
MAKE SURE THAT PUBLICATION  
NOTICE OCCURS VIA WEBSITE AND  
THE POSTING SO AGAIN, WHILE WE  
RECOGNIZE THAT THIS RULE PUT  
BURDENS ON ALL OF THE PARSE  
PAINTS IN THE SYSTEM ON  
LITIGANTS!!\$S!!!!!!!!!!!!!!!  
LITIGANTS, COURTS AND ON THE  
CLERKS, WE TRIED VERY HARD TO  
SPREAD THOSE BURDENS AROUND  
AND WE THINK ACHIEVED THAT  
KIND OF BALANCE.

>> ON THE POSTING ISSUE, ON  
THE BURDEN I'M UNDERSTANDING

THAT THIS IS PUT IT LIKE WE  
POST, ALL THE TIME, ON OUR  
WEBSITE!!\$\$!!!!!!!!!!!!  
WEBSITE, THOSE THINGS, AND IT  
IS NOT -- DON'T KNOW HOW MUCH  
OF A BURDEN, BUT, IS THERE WAS  
WAS THERE SOME ATTEMPT TO MAKE  
IT SO IT WOULD BE UNIFORM AS  
TO HOW IT WOULD BE POSTED, OR  
AND THEN THE OTHER PART IS  
WHERE IN THE HOW DO YOU DO  
THAT IN THE COURTHOUSE YOU  
JUST PUT IT YOU ON A ALL ABOUT!!\$\$!!!!!!!!!!!!  
ABOUTTIN BOARD?

I WAS -- TRYING TO FIT IT  
IN --

>> WE WERE -- LOATHE TO BE TOO  
SPECIFIC, I GUESS, IT WILL  
DEPENDS WHAT YOUR COURTHOUSE  
LOOKS LIKE WEBSITE LOOKS LIKE  
WEREN'T -- SET MINIMUM  
STANDARD -- AND THEN MAKE  
CLEAR THERE ARE MINIMUM IF AN  
ABILITY OF THE CLERKS TO POST  
THESE ON THE WEBSITE, FOREVER,  
SO BE IT WE DIDN'T WANT TO DO  
IS IMPOSE THAT OBLIGATION, AND  
SAY YOU HAVE GOT TO KEEP IT ON  
THERE FOREVER IF SERVER  
COULDN'T HANDLE IT SO  
ULTIMATELY THERE IS GOING TO  
HAVE TO BE DISCRETION ON THE  
INITIAL CLERKS, BUT AGAIN TO  
MAKE SURE ON THE INTERNET AND  
SIMILAR PHYSICAL IN CASE  
LITIGANT --

>> WITH SO YOU ARE ASSISTANCE  
OF YOU GONE WELL BEYOND YOUR  
TIME, AND -- WITHOUT FURTHER  
QUESTIONS WE THANK ALL OF YOU  
FOR COMING WE THANK THIS  
COMMITTEE FOR DOING IT'S HARD  
WORK ALL THE COMMENTERS THANK  
YOU THIS THEEBL WHICH THE  
SYSTEM WORKS WE KNOW THIS IS  
NOT A PAID JOB YOU ARE DOING  
IT FOR THE BETTERMENT OF THE  
OF THE ENTIRE BRANCH, WE THANK  
YOU ALL OF YOU FROM THE  
CLERK'S OFFICE, STATE  
ATTORNEYS, PRIVATE ATTORNEYS,  
FOR THE PRESS, AND PUBLIC  
DEPPEDERS TO JUDICIAL BRANCH  
COMMITTEE THANK ALL OF YOU FOR

DOING THAT A DECISION WE WILL  
NEED TO MAKE THE COURT WILL  
TAKE ITS MORNING RECESS.

>> ALL RISE.