

COMMONWEALTH OF MASSACHUSETTS

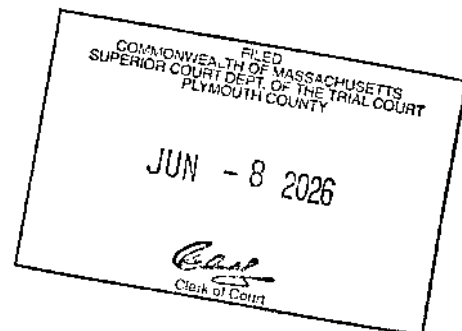
PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT  
CIVIL DOCKET NO.: 2483CV00692

PAUL O'KEEFE, Individually and as Personal )  
Representative of the Estate of John Joseph )  
O'Kecfe, III; MARGARET O'KEEFE, Individually )  
and Grandparent/Guardian of KAYLEY FURBUSH, )  
and JOHN O'KEEFE, II, )  
Plaintiffs )

v. )

C&C HOSPITALITY, LLC d/b/a C.F. McCarthy's; )  
G&S HOSPITALITY, LLC d/b/a C.F. McCarthy's; )  
WATERFALL BAR & GRILL, LTD d/b/a )  
WATERFALL BAR & GRILL, and KAREN READ )  
Defendants. )



**MOTION TO PROVISIONALLY IMPOUND ADDITIONAL MATERIALS SUBMITTED**  
**IN SUPPORT OF MOTION FOR PROTECTIVE ORDER**

Non-party witness Michael Proctor ("Mr. Proctor") hereby moves to provisionally impound Exhibit A (Affidavit of Matthew J. Hamel) and Exhibit B (medical documentation), attached hereto under Rule 2 of the Uniform Rules on Impoundment Procedure.

**I. Introduction**

For purposes of brevity, Mr. Proctor will not restate the history of this dispute; and instead incorporates herein by reference Mr. Proctor's earlier filed Motion to Provisionally Impound his Affidavit and the Affidavit of his counsel, filed with the Court on June 7, 2026, and served on counsel the same date. This Motion is before the Court as related to Mr. Proctor's separate Emergency Motion for a Protective Order. Mr. Proctor hereby submits Exhibits A and B in furtherance of his Emergency Motion for a Protective Order, and hereby requests that Exhibits A and B be impounded.

## II. Argument

Mr. Proctor seeks permanent impoundment of Exhibit A and B under Rule 2 of the Uniform Rules of Impoundment Procedure. “The party seeking impoundment ‘bears the burden of demonstrating the existence of good cause’” DosSantos v. Beth Israel Deaconess Hosp.-Milton, Inc., 497 Mass. 34, 41 (2026), quoting New England Internet Café, LLC v. Clerk of the Superior Court for Criminal Business in Suffolk County, 462 Mass. 76, 83 (2012) (quotation and citation omitted). When a movant meets this burden, the movant overcomes the “presumption of publicity of judicial records[.]” New England Internet Café, LLC, 462 Mass. at 83. In determining whether to impound materials, the Court must “balance the privacy issues against the ‘general principle of publicity’ which governs judicial proceedings” and must determine whether good cause exists for the impoundment. H.S. Gere & Sons, Inc. v. Frey, 400 Mass. 326, 329 (1987).

The materials Mr. Proctor seeks to impound contain private information concerning Mr. Proctor’s medical condition. Impoundment is necessary given the public nature of this matter, and for the reasons stated on the record at the earlier hearing on June 8, 2026. Mr. Proctor is well aware that that “allegations of potential embarrassment, or the fear of unjustified adverse publicity, are not sufficient” to support a motion to impound. George W. Prescott Pub. Co. v. Reg. of Prob. for Norfolk Cnty., 395 Mass. 274, 279 (1985). However, Mr. Proctor is witness in this case—not a party—and while Ms. Read no doubt has the right to mount her defense, Mr. Proctor has a countervailing and statutorily recognized right to privacy under G.L. c. 214, § 1B, and a legitimate expectation that his personal circumstances, which bear no relevance to this action, would not be publicly disclosed. See H.S. Gere & Sons, Inc., 400 Mass. at 331 (concluding judge correctly balanced privacy interests and the principle of publicity where the nature of the information was “intensely personal” and noting that a legitimate expectation of privacy “ordinarily is sufficient to

constitute good cause”). See also Camacho v. Massachusetts Env’t Police, 99 Mass. App. Ct. 1112 (2021) (Rule 23.0 decision). Given the intense media scrutiny this case has garnered, Mr. Proctor’s own legitimate expectation of privacy, and for the reasons stated on the record at the earlier hearing on June 8, and in Mr. Proctor’s June 7, 2026 Motion to Provisionally Impound, there is also no sufficient alternative to impoundment. See Mass. Unif. Impoundment Proc. Rule 2 (a)(1)(IV).

WHEREFORE, Mr. Proctor requests that this Honorable Court allow this Motion to Impound Exhibits A and B for the duration of this litigation. A proposed order is enclosed below.

Respectfully submitted,

INTERESTED PARTY,

MICHAEL PROCTOR

By his Attorneys,

**PIERCE DAVIS & PERRITANO LLP**

*/s/ Matthew J. Hamel*

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June 8, 2026

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SUPERIOR COURT DEPARTMENT  
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**[PROPOSED] ORDER ON MOTION TO PROVISIONALLY IMPOUND EXHIBITS A**  
**(Affidavit of Matthew J. Hamel) AND B (Medical Information)**

On consideration of Mr. Proctor's Motion to Impound his affidavit, brought pursuant to Rule 2 of the Massachusetts Rules of Uniform Impoundment Procedure, and any oppositions thereto, the Court finds that good cause exists for impoundment of Exhibits A and B for the duration of this litigation.

Therefore, it is hereby ORDERED that the Exhibits A and B, as attached to Mr. Proctor's June 8, 2026 Motion to Provisionally Impound is under impoundment and will be withheld from public inspection through the duration of this litigation. The Clerk shall maintain Mr. Proctor's Affidavit under impoundment and shall not permit public access to them except upon further order of this Court. Such order shall remain in effect until final judgment enters in this matter. This impoundment order shall not prohibit public access to this material by the Court and its

personnel, counsel of record and their authorized staff, the parties, and other such persons as the Court, in its discretion, may specifically authorize.

SO ORDERED.

Date: \_\_\_\_\_

**CERTIFICATE OF SERVICE**

I, Matthew J. Hamel, certify that on June 8, 2026, a true copy of the aforementioned document was served via electronic mail upon counsel listed below.

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*/s/ Matthew J. Hamel*

Matthew J. Hamel