

2026 JUL -1 PM 2:01

ROBERT BRIAN BLACK 7659
BENJAMIN M. CREPS 9959
DÉVI DIANA STONE CHUNG 12173
Public First Law Center
700 Bishop Street, Suite 1701
Honolulu, Hawai`i 96813
brian@publicfirstlaw.org
ben@publicfirstlaw.org
fellow@publicfirstlaw.org
Tele: (808) 531-4000
Facsimile: (808) 380-3580

M. L. FAGARANG
CLERK

Attorneys for Movant Public First Law Center

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

SHERYL L. HAUKE,

Plaintiff,

v.

RICHARD V. CLOCK, et al.,

Defendant.

CIVIL NO. 1CC151001608

NON-HEARING MOTION TO
UNSEAL, and MEMORANDUM OF
LAW IN SUPPORT OF MOTION TO
UNSEAL

NON-HEARING MOTION TO UNSEAL

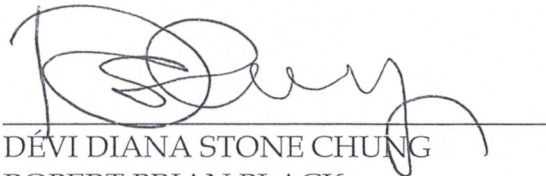
Pursuant to the constitutional right of access provided by the First Amendment of the U.S. Constitution; article I, section 4 of the Hawai`i Constitution; and Hawai`i Court Records Rule 10.10, Public First Law Center (Public First) requests access to the complaint and docket index in this case. Currently, nothing is publicly accessible—eCourt Kōkua does not identify the names of the parties or any docket entries. There is no order to seal, no explanation of the compelling interest that will be irreparably

harmful if the docket is publicly available, and no findings as to why other alternatives to sealing would be inadequate.

The public has a constitutional right of access to court proceedings and files. Courts cannot seal a case simply because the parties want to keep it secret. There are established procedural and substantive measures that protect the public's right of access. None of those protections appear to have been met in this case.

Public First respectfully requests that the Court unseal the complaint and the case docket.¹

DATED: Honolulu, Hawai'i, July 1, 2026



DÉVI DIANA STONE CHUNG
ROBERT BRIAN BLACK
BENJAMIN M. CREPS
Public First Law Center
Attorneys for Movant Public First Law Center

¹ Public First conventionally filed this motion because, if added as an electronic filer to the case, Public First would gain electronic access to the documents that it is seeking to unseal.

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

SHERYL L. HAUK,

Plaintiff,

v.

RICHARD V. CLOCK, et al.,

Defendant.

CIVIL NO. 1CC151001608

MEMORANDUM OF LAW IN
SUPPORT OF MOTION TO UNSEAL

MEMORANDUM OF LAW IN SUPPORT OF MOTION TO UNSEAL

Public First respectfully requests access to the complaint filed in this case and the case docket. No compelling interest justifies the wholesale removal of an entire civil case from the public record. On June 29, 2026, pursuant to HCRR Rule 10.10, Public First requested and was denied access to the case docket and complaint filed in this matter.

1. The Constitutional Standard for Sealing Court Records

The Hawai`i Supreme Court has recognized that the public has a constitutional right of access to judicial proceedings, including court records. *Grube v. Trader*, 142 Hawai`i 412, 422, 420 P.3d 343, 353 (2018); *accord Oahu Public`ns, Inc. v. Ahn*, 133 Hawai`i 482, 507, 331 P.3d 460, 485 (2014).² “[T]here is a strong presumption that court

² Although *Grube* and *Ahn* concerned criminal proceedings, the same principles apply to civil cases. *Ahn*, 133 Hawai`i at 493 n.14, 496 n.18, 508 n.36, 331 P.3d at 471 n.14, 474 n.18, 486 n.36 (noting that the public’s interest is “equally compelling in the civil context.”); *accord Civil Beat Law Ctr. for the Pub. Interest v. Kawashima*, No. SCPW-24-484,

proceedings and the records thereof shall be open to the public.” *Grube*, 142 Hawai`i at 428, 420 P.3d at 359.

Hawai`i has a long tradition of open access to judicial proceedings. In *Gannett Pacific Corp. v. Richardson*, the Hawai`i Supreme Court explained that “[b]ecause of our natural suspicion and traditional aversion as a people to secret proceedings, suggestions of unfairness, discrimination, undue leniency, favoritism, and incompetence are more easily entertained when access by the public to judicial proceedings are unduly restricted.” 59 Haw. 224, 230, 580 P.2d 49, 55 (1978); accord *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 571 (1980) (plurality opinion) (“A result considered untoward may undermine public confidence, and where the trial has been concealed from public view an unexpected outcome can cause a reaction that the system at best has failed and at worst has been corrupted.”).

Openness not only dispels such suggestions of unfairness, but “also serves to enhance public trust and confidence in the integrity of the judicial process.” *Gannett*, 59 Haw. at 230, 580 P.2d at 55; accord *Grube*, 142 Hawai`i at 422, 420 P.3d at 353 (“The right of access thus functions not only to protect the public’s ability to gain information — a requisite to the enjoyment of other First Amendment rights — but also as a safeguard of the integrity of the courts.”); see also *Richmond Newspapers*, 448 U.S. at 572 (plurality opinion) (“People in an open society do not demand infallibility from their institutions,

2026 Haw. LEXIS 3, at *4 (Jan. 5, 2026) (“The total sealing of a civil case file that is publicly accessible implicates the public’s right of access to court records under article I, section 4 of the Hawai`i Constitution.”); *Roy v. GEICO*, 152 Hawai`i 225, 233, 524 P.3d 1249, 1257 (App. 2023).

but it is difficult for them to accept what they are prohibited from observing.”). “The efficiency, competence, and fairness of our judicial system are matters of legitimate interest and concern to our citizenry, and free access to our courtrooms is essential to their proper understanding of the nature and quality of the judicial process.” *Gannett*, 59 Haw. at 230, 580 P.2d at 55.

The public’s constitutional right to access court records “can only be overcome by findings that ‘the closure is essential to preserve higher values’ and that the closure is ‘narrowly tailored’ to serve that interest.” *Grube*, 142 Hawai`i at 424, 420 P.3d at 355 (citing *Ahn*, 133 Hawai`i at 498, 331 P.3d at 476). To justify keeping a court record sealed, a court must “make specific findings demonstrating a compelling interest, a substantial probability that the compelling interest would be harmed, and there is no alternative to [sealing the record] that would adequately protect the compelling interest.” *Ahn*, 133 Hawai`i at 507, 331 P.3d at 485; accord *Grube*, 142 Hawai`i at 424, 420 P.3d at 355; see *Civil Beat Law Ctr.*, 2026 Haw. LEXIS 3, at *5 (writ of mandamus ordering unsealing because “no written findings were made by the circuit court to justify total sealing of the case file, including the docket and complaint”).

“To qualify as compelling, the interest must be of such gravity as to overcome the strong presumption in favor of openness. . . . [T]he asserted interest must be of such consequence as to outweigh both the right of access of individual members of the public and the general benefits to public administration afforded by open trials.” *Grube*, 142 Hawai`i 425-26, 420 P.3d at 356-57. “Although privacy rights may in some instances

rise to the level of compelling, simply preserving the comfort or official reputations of the parties is not a sufficient justification.” *Id.* at 425, 420 P.3d at 356.

If relevant here, concealing allegations of sexual conduct is not a compelling interest and fails to justify wholesale sealing. *E.g.*, *Doe v. White*, No. 1CC051000863, Dkt. 107 (Haw. Cir. Ct. Dec. 23, 2022), *as amended*, Dkt. 109 (Dec. 27, 2022) (unsealing docket and court records containing sexual assault allegations); *Doe v. Ibana*, No. 1CC121001422, Dkt. 68 (Haw. Cir. Ct. Apr. 21, 2021) (same); *Slivka v. YMCA*, 390 F. Supp. 3d 1283, 1288 (D. Colo. 2019) (denying defendant’s motion to seal complaint and other documents containing allegations of workplace sexual harassment and sexual assault); *Doe v. Methacon School Dist.*, 878 F. Supp. 40, 43 (E. D. Pa. 1995) (ordering the unsealing of the entire record of a case involving allegations of sexual assault of a minor student by a teacher); *see also Civil Beat Law Ctr.*, 2026 Haw. LEXIS 3 (unsealing complaint and docket in *M.K. v. Schlesinger*, No. 1CCV-19-2164, Dkt. 1, involving sexual assault allegations).

If a compelling interest exists, “a court must find that disclosure is sufficiently likely to result in irreparable damage to the identified compelling interest.” *Ahn*, 133 Hawai`i at 507, 331 P.3d at 485. “It is not enough that damage could possibly result from disclosure, nor even that there is a ‘reasonable likelihood’ that the compelling interest will be impeded; there must be a ‘substantial probability’ that disclosure will harm the asserted interest.” *Grube*, 142 Hawai`i at 426, 420 P.3d at 357. The harm “must be irreparable in nature.” *Id.*

If there is a compelling interest that would be irreparably harmed by disclosure, redaction is an adequate alternative to concealing an entire document from the public. *Ahn*, 133 Hawai`i at 507-08, 331 P.3d at 485-86 (“redacting personal identifiers or replacing any identifying information with a juror-number generally strikes the quintessential balance between preserving juror privacy and allowing public access to review trial proceedings for fairness and impartiality”); accord *Oahu Public’ns Inc. v. Takase*, 139 Hawai`i 236, 246-47, 386 P.3d 873, 883-84 (2016). Any denial of public access must be narrowly tailored so that it is “no greater than necessary to protect the interest justifying it.” *Grube*, 142 Hawai`i at 427, 420 P.3d at 358.

2. The Public Record Lacks Sufficient Information About the Proceedings and the Need for Sealing.

The public record offers no explanation for why this entire case is sealed. There is no accessible motion to seal, nor any indication that the parties submitted facts or that the Court made specific findings sufficient to justify closure. Without any information about what happened, Public First does not have “a *meaningful* opportunity to address sealing the [documents] on the merits, or to discuss with the court viable alternatives.” *Ahn*, 133 Hawai`i at 507, 331 P.3d at 485 (emphasis added). With only a case name, Public First can merely speculate as to the reasons behind this sealing.

Complaints are generally public records. “[T]he fact of filing a complaint, whatever its veracity, is a significant matter of record.” *Bernstein v. Bernstein Litovitz Berger & Grossmann LLP*, 814 F.3d 132, 140 (2d Cir. 2016); accord *Roy*, 152 Hawai`i at 234-35, 524 P.3d at 1258-59; *Courthouse News Serv. v. Planet*, 947 F.3d 581, 590-94 (9th Cir.

2020) (affirming the public's right to access civil complaints); *Vassiliades v. Israely*, 714 F. Supp. 604, 606 (D. Conn. 1989) (refusing request to file complaint under seal because party consent, concerns about "adverse publicity," and potential for early settlement do not justify sealing a complaint).

Courts also recognize that sealed dockets violate the First Amendment because secrecy makes it impossible to exercise the public's constitutional right of access to judicial records. *E.g.*, *Company Doe v. Public Citizen*, 749 F.3d 246, 268-71 (4th Cir. 2014); *Hartford Courant Co. v. Pellegrino*, 371 F.3d 49, 62-63 (2d Cir. 2004); *United States v. Valenti*, 987 F.2d 708, 715 (11th Cir. 1993); *In re Search Warrant*, 855 F.2d 569, 575 (8th Cir. 1988); *accord Globe Newspaper Co. v. Pokaski*, 868 F.2d 497, 508-09 (1st Cir. 1989) (holding statute unconstitutional that sealed entire criminal proceedings, including the docket, without individualized findings).

There is no justification for hiding this entire case file from public view.

3. Redaction is a More Narrowly Tailored Solution to Any Concerns.

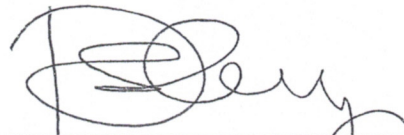
In *Grube*, *Ahn*, and *Takase*, the Hawai'i Supreme Court emphasized that sealing court proceedings from public view must be "narrowly tailored to serve [a compelling government interest]." *Ahn*, 133 Hawai'i at 497, 331 P.3d at 475; *accord Grube*, 142 Hawai'i at 427, 420 P.3d at 358 ("The court should therefore make findings regarding specific alternatives and set forth its reasons for rejecting each."); *Takase*, 139 Hawai'i at 246-47, 386 P.3d at 883-84. In each case, the supreme court emphasized redactions as an appropriate alternative to sealing an entire document.

But this Court withheld everything, even the docket. That is not a narrowly tailored solution.

CONCLUSION

Public First respectfully requests that this Court unseal the complaint filed in this case and the case docket.

DATED: Honolulu, Hawai'i, July 1, 2026



DÉVI DIANA STONE CHUNG
ROBERT BRIAN BLACK
BENJAMIN M. CREPS
Public First Law Center
Attorneys for Movant Public First Law Center