

DISTRICT COURT, DENVER COUNTY STATE OF COLORADO Court Address: 1437 Bannock Street Denver, Colorado 80202	Δ COURT USE ONLYΔ
BJORN K. BORGEN, Plaintiff, v. CANDY A. CAMPBELL, Defendant.	Case No. 10-cv-4273 Division 8
Attorneys for Plaintiff, Bjorn K. Borgen G.W. MERRICK & ASSOCIATES, LLC Glenn W. Merrick, No. 10042 Joseph T. Bernstein, No. 37753 Suite 912, 5445 DTC Parkway Greenwood Village, Colorado 80111 Telephone: (303) 831-9400 Facsimile: (303) 771-5803 E-mail: gwm@gwmerrick.com jtb@gwmerrick.com	
MOTION TO LIMIT PUBLIC ACCESS TO DEFENDANT'S "ANSWER" FILED NOVEMBER 5, 2010	

Pursuant to C.R.C.P. 121 § 1-5, Plaintiff, Bjorn K. Borgen (“Borgen”), through his undersigned counsel, G.W. MERRICK & ASSOCIATES, LLC, respectfully moves the Court for entry of an Order limiting public access to the “Answer and Opposition to Plaintiff’s Motion in Limine to Bar Irrelevant Testimony and Materials” filed with the Court on November 5, 2010 by Defendant, Candy A. Campbell (“Campbell”). As grounds for this Motion, Borgen respectfully advises as follows:

1. C.R.C.P. 121 § 1-15(8) Certification. The undersigned certifies that no conference with Campbell was attempted prior to filing the instant Motion because Campbell is not represented by counsel and because conferring would be futile under the circumstances.

2. On November 5, 2010, Campbell filed with this Court her “Answer and Opposition to Plaintiff’s Motion in Limine to Bar Irrelevant Testimony and Materials” (the “Answer”), which includes 104 pages of photocopied documents.

3. C.R.C.P. 121 § 1-5 authorizes this Court to limit public access to court files upon motion by any party and upon a showing that the harm to the privacy of a person in interest outweighs the public interest. For the reasons set forth herein, the requirements of C.R.C.P. 121 § 1-5 are satisfied with respect to the “Answer” filed by Campbell, and Borgen therefore respectfully requests entry of an Order limiting public access to the “Answer.”

4. Public Access to the “Answer” is Acutely Harmful to Borgen. The “Answer” filed by Campbell and its supporting documents are of a highly personal, sensitive and private nature. The “Answer” includes letters and postcards written 15-20 years ago by Borgen to a third-party with whom Campbell alleges Borgen had a “relationship.” “Answer” at pp. 73-111. The “Answer” also includes a letter from the third-party containing a highly personal and private synopsis of the alleged “relationship.” *Id.* at pp. 10-12.

5. The public disclosure of these documents is acutely harmful to Borgen. Borgen is a private individual, and the disclosure of the “Answer” and its supporting documents spays open Borgen’s private life to the public. Continuing public access to the “Answer” destroys the privacy Borgen -- or any person -- reasonably expects and enjoys in the conduct of his or her private and personal life.

6. Worse, the public disclosure of the “Answer” will manifestly injure and prejudice Borgen’s ability to engage in business both domestically and internationally. Borgen’s business affiliates routinely conduct background searches in respect of ongoing and potential business arrangements, and the public disclosure of the “Answer” is likely to cause Borgen and his affiliates to lose important and profitable business and financial opportunities. At a minimum, the public disclosure of the “Answer” is likely to substantially delay business negotiations in which Borgen is involved while Borgen attempts to explain the “Answer” at great expense, embarrassment and inconvenience.

7. The Public Has No Interest in the “Answer”. Conversely, there is no public interest in the “Answer.” The sensitive and personal details of a relationship alleged to have occurred 15-20 years ago between two private individuals is simply not a matter of public concern. This Court’s files should not be used as a public archive of highly personal correspondence and other documents reflecting a private relationship between two private people. There is simply no public interest here.

8. The “Answer” and Supporting Documents Have No Evidentiary Value. Moreover, the “Answer” filed by Campbell are not relevant to *any* of the claims or allegations at issue in this case. A past relationship between Borgen and some third-party that occurred 15-20 years ago is not remotely relevant to any of the claims asserted here by Borgen and Campbell. The

only purposes to be served by the public disclosure of the “Answer” are embarrassment, delay and prejudice¹.

9. The requirements of C.R.C.P. 121 § 1-5 are met. Continuing public access to the “Answer” is highly likely to result in harm and injury to Borgen vastly outweighing any public interest in the “Answer.” Moreover, the “Answer” and supporting documents have no evidentiary value and are both inadmissible and irrelevant in the present case.

WHEREFORE, Borgen respectfully requests entry of an Order limiting public access to the “Answer” filed by Campbell on November 5, 2010. A proposed Order is granted herewith for the consideration and convenience of the Court.

Dated: November 10, 2010. Respectfully submitted,

G.W. MERRICK & ASSOCIATES, LLC



By: /s/ Glenn W. Merrick

Glenn W. Merrick, No. 10042


ATTORNEYS FOR PLAINTIFF, BJORN K.
BORGEN

¹ On November 1, 2010, Borgen filed with this Court his Motion in Limine to Bar Irrelevant Testimony and Materials. For the reasons set forth in that Motion, Borgen respectfully submits that the “Answer” and supporting documents filed with the Court by Campbell are inadmissible pursuant to C.R.E. 402, 403 and 404(b).

CERTIFICATE OF SERVICE

The undersigned certifies that on November 10, 2010, the foregoing MOTION TO LIMIT PUBLIC ACCESS TO DEFENDANT'S "ANSWER" FILED NOVEMBER 5, 2010 was served upon Plaintiff by placing the same in the custody of the U.S. Postal Service, postage prepaid, addressed as follows:

Candy Campbell
724 Hayden Court
Longmont, Colorado 80503


/s/ Sabrina R. Marymee
Sabrina R. Marymee

In accordance with C.R.C.P. 121 § 1-26(9) a printed copy of this document with original signatures is being maintained by the filing party and will be made available for inspection by other parties or the court upon request.

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BJORN K. BORGEN, Plaintiff, v. CANDY A. CAMPBELL, Defendant.	Case No. 10-cv-4273 Division 8
ORDER LIMITING PUBLIC ACCESS TO THE “ANSWER” FILED BY DEFENDANT ON NOVEMBER 5, 2010	

THIS MATTER, having come before the Court upon the “Motion to Limit Public Access to Defendant’s ‘Answer’ Filed November 5, 2010” (the “Motion”) filed by Plaintiff on November 10, 2010; and,

THE COURT, having reviewed the Motion and the Court’s file and having determined that the Motion is meritorious, that the relief requested therein should be granted, and that the requirements of C.R.C.P. 121 § 1-5 have been satisfied;

NOW, THEREFORE, the Motion is GRANTED. The Clerk of the Court is hereby instructed to place under seal Defendant’s “Answer and Opposition to Plaintiff’s Motion in Limine to Bar Irrelevant Testimony and Materials” dated November 5, 2010, and to limit public access to that filing to the parties, their counsel and Court personnel.

Done this ____ day of _____, 2010.

BY THE COURT

District Court Judge