

**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT,
IN AND FOR PINELLAS COUNTY, FLORIDA**

IN RE: GUARDIANSHIP OF

PROBATE DIVISION

**THERESA MARIE SCHIAVO,
Ward.**

**Ref No.: 90-002908-GD
Section: 003**

**MOVANT BOBBY SCHINDLER'S RESPONSE TO
MICHAEL SCHIAVO'S AMENDED REQUEST TO PRODUCE**

COMES NOW, Movant BOBBY SCHINDLER, by and through his undersigned attorneys, and responds to MICHAEL SCHIAVO'S Amended Request to Produce, pursuant to Florida Rules of Civil Procedure 1.350, as follows:

GENERAL OBJECTIONS

GENERAL OBJECTION # 1: All seven of Michael Schiavo's requests for production ("RFP") made pursuant to Fla. R. Civ. P. 1.350 violate the scope of discovery established by Fla. R. Civ. P. 1.280(b)(1). The RFPs request production of documents related to: the corporate documents of the Terri Schiavo Life & Hope Network (RFP 1 & 6), the intended use of any records unsealed through the Movants' motions (RFP 2, 3, & 5), filings made in the instant case that are in Bobby Schindler's possession (RFP 4), and correspondence with Mary Schindler regarding the Movants' motions (RFP 7). Pursuant to Fla. R. Civ. P. 1.280(b)(1), the scope of discovery is limited as follows:

(1) In General. Parties may obtain discovery regarding any matter, not privileged, **that is relevant to the subject matter of the pending action, whether it relates to the claim or defense of the party seeking discovery or the claim or defense of any other party**, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons

having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

Fla. R. Civ. P. 1.280(b)(1) (Lexis 2024) (emphasis added). Here, the subject matter of the pending action is a motion to unseal the Court's records in the instant case. (Amended Motion to Unseal Guardianship Records at 5 (Doc # 162).) In *Goldberg v. Johnson*, the Court of Appeal held: "The public and press have a right to know what goes on in a courtroom whether the proceeding be civil or criminal." 485 So. 2d 1386, 1388 (Fla. Dist. App. 1986). The *Goldberg* court went on to hold:

[T]he Supreme Court of Florida stated that, because of the importance of freedom of expression and because society's interest in the openness of court proceedings, Florida's courts have held that the denial of access to court records for the purpose of protecting the interests of the litigants may only be ordered after a showing that the following three prong test has been met. It must be shown that 1) the measure limiting or denying access (closure or sealing of records or both) is necessary to prevent a serious and imminent threat to the administration of justice; 2) no less restrictive alternative measures are available which would mitigate the danger; and 3) the measure being considered will in fact achieve the court's protective purpose.

Id. at 1388-89. As the court established in *Goldberg*, the only relevant issues in considering a motion to unseal court records are: 1) whether sealing records "is necessary to prevent a serious and imminent threat to the administration of justice," 2) whether any "less restrictive alternative measures are available which would mitigate the danger," and 3) whether keeping the records sealed "will in fact achieve the court's protective purpose." *Id.* Since none of Michael Schiavo's RFPs have anything to do with any of these issues, his RFPs are all outside the scope of Fla. R. Civ. P. 1.280(b)(1) and should be stricken.

Further, as previously stated, the RFPs that were posed have to do with the corporate documents of the Terri Schiavo Life & Hope Network (RFP 1 & 6), the intended use of any records unsealed through the Movants' motions (RFP 2, 3, & 5), filings made in the instant case that are in Bobby Schindler's possession (RFP 4), and correspondence with Mary Schindler regarding the Movants' motions (RFP 7). In essence, all of the RFPs have to do with: Who is asking to have the Court's records unsealed and what they intend to do with the records once they are unsealed. As the court made clear in *Goldberg*, "it does not suffice to say that [a party] has no legitimate interest in these records since 'it is not the public's *reason* for attending but rather the public's *right* to attend that is to be evaluated.'" *Id.* at 1389. Here, since Michael Schiavo's RFPs all address the Movants' *reasons* for wanting the Court's records unsealed, all seven (7) of his RFPs should be stricken as outside the scope of Fla. R. Civ. P. 1.280(b)(1).

GENERAL OBJECTION # 2: Fla. R. Gen. Prac. & Jud. Admin. 2.420(e)(6) provides as follows in relevant part:

(6) If a nonparty requests that the court vacate all or part of an order issued under subdivision (e) or requests that the court order the unsealing of records designated as confidential under subdivision (d), the request must be made by a written motion, filed in that court, that states with as much specificity as possible the bases for the motion. The motion must set forth the specific legal authority and any applicable legal standards supporting the motion. The movant must serve all parties and all affected non-parties with a copy of the motion. Except when a motion filed under this subdivision represents that all parties and affected non-parties agree to all of the relief requested, **the court must, as soon as practicable but no later than 30 days after the filing of a motion under this subdivision, hold a hearing on the motion.**

Fla. R. Gen. Prac. & Jud. Admin. 2.420(e)(6) (Lexis 2024) (emphasis added). While Fla. R. Civ. P. 1.350 concerning requests for production provides that the “party to whom the request is directed shall serve a written response **within 30 days** after service of the request,” in the case of a motion to unseal court records, Fla. R. Gen. Prac. & Jud. Admin. 2.420(e)(6) requires: “the court must, as soon as practicable but no later than 30 days after the filing of a motion under this subdivision, hold a hearing on the motion.” As such, if the Rules of General Practice and Judicial Administration are complied with, there is not sufficient time to conduct discovery in relation to a motion to unseal court records. Therefore, it is clear that conducting discovery in relation to such a motion is contrary to the Florida rules and appears to be prohibited. For this reason, all of Michael Schiavo’s RFPs (1 – 7) should be stricken.

RESPONSES TO REQUESTS FOR PRODUCTION

1. Copies of all corporate documents including Charter, or Articles of Organization, Shareholder or Membership records, Operation Agreement, minutes and resolutions appointing or nominating MARY SCHINDLER to any position in the company and any ledger relating to the TERRI SCHIAVO LIFE & HOPE NETWORK.

RESPONSE:

OBJECTIONS: SEE GENERAL OBJECTIONS 1 & 2. OBJECTION: Fla. R. Civ. P. 1.350(b) does not require a party to produce copies of documents, only that the responding party “shall state that inspection and related activities will be permitted as requested.” Therefore, RFP # 1 is contrary to and violates Fla. R. Civ. P. 1.350(b). Without waiving said objections, the Movant responds by advising that copies of the relevant articles of organization are available from www.sunbiz.org.

2. All documents reflecting or which may reflect your intent to utilize any information contained from the Guardianship files of THERESA MARIE SCHIAVO.

RESPONSE:

OBJECTIONS: SEE GENERAL OBJECTIONS 1 & 2. Without waiving said Objections, the Movant responds as follows: No responsive documents.

3. All documents between you and any third parties, which are not otherwise privileged under a valid claim of attorney-client privilege, relating to your intended use of any documents you have received, if any, from the Guardianship file of THERESA MARIE SCHIAVO.

RESPONSE:

OBJECTIONS: SEE GENERAL OBJECTIONS 1 & 2. Without waiving said Objections, the Movant responds as follows: No responsive documents.

4. All documents in your possession relating to any filings made during the proceedings of the Guardianship of THERESA MARIE SCHIAVO, through the date of her death.

RESPONSE:

OBJECTIONS: SEE GENERAL OBJECTIONS 1 & 2. Without waiving said Objections, see documents produced as BOBBY SCHINDLER 1 - 2.

5. All contracts, agreements, letters of intent relating in any way to your intended use and or exploitation of any of the documents in the Guardianship file of THERESA MARIE SCHIAVO.

RESPONSE:

OBJECTIONS: SEE GENERAL OBJECTIONS 1 & 2. Without waiving said Objections, the Movant responds as follows: No responsive documents.

6. All minutes, written actions, and other such corporate memoranda relating to any interest in which MARY SCHINDLER has or ever had in the TERRI SCHIAVO LIFE & HOPE NETWORK.

RESPONSE:

OBJECTIONS: SEE GENERAL OBJECTIONS 1 & 2. OBJECTION: It is unclear what “any interest in which MARY SCHINDLER has or ever had in the TERRI SCHIAVO LIFE & HOPE NETWORK” means, given that the entity is a Florida Not for Profit Corporation. Without waiving said Objections, the Movant responds as follows: No responsive documents.

7. All correspondence between you and MARY SCHINDLER regarding her entry and insertion as a purported Co-Petitioner as reflected in the filing made on July 31, 2024, adding MARY SCHINDLER as a Party.

RESPONSE:

OBJECTIONS: SEE GENERAL OBJECTIONS 1 & 2. OBJECTION: It is unclear what RFP # 7 requests. The RFP is incomplete because it ends: “in the filing made July 31, 2024, adding”. Without waiving said Objections, the Movant responds as follows: No responsive documents.

Respectfully submitted,

/s/ David C. Gibbs .

David C. Gibbs III, Esq.

Fla. Bar No. 992062

P. Scott Miller, Esq.

Florida Bar No. 0093782

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Counsel for Movants



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November 27, 2023

Mr. Ken Burke, CPA
Clerk of the Circuit Court and Comptroller
Pinellas County, FL
315 Court Street
Clearwater, FL 33756

Dear Mr. Ken Burke:

Pursuant to Article I, section 24 of the Florida Constitution, and Chapter 119, F.S., I am requesting an opportunity to inspect and obtain copies of public records that are currently in your custody as Clerk of the Circuit Court and Comptroller, Pinellas County, Florida.

The specific documents I am requesting can be found under case number CASE NO. 90-002908-GD, uniform case number 521990GA002908XXGDXX, a Guardianship Action originally filed on 5/22/1990 with the caption of "In Re: SCHIAVO THERESA MARIE." The following is a list of records that I wish to inspect:

1. The entire docket or register of actions including detail on each entry that is being maintained under seal or is otherwise unavailable for public inspection. I would also request that, if available, the specific court order or other statutory authority under which each entry is either sealed or not available for public inspection is being used to exempt that record from applicable open records laws.
2. The entire record for entry "03/07/2005 **PETITION** - *PETITION FOR CLOSING/SEALING OF PROCEEDINGS & RECORDS-AMENDED*".
3. The entire record for entry "03/22/2005 **MOTION** - *MOTION TO UNSEAL RECORDS - DCF*".
4. The entire record for entry "03/24/2005 **ORDER** - *ORDER TO UNSEAL RECORDS IS DENIED*".
5. The entire record for entry "04/11/2005 **ORDER** - *ORDER TO UNSEAL RECORDS - DCF - NOT SIGNED*".
6. The entire record for entry "02/23/2005 **TEXT** - *APPT OF LEGAL COUNSEL & SEAL PROCEEDINGS FILED W/CLERK 030305*".
7. Any other record pertaining the either an opinion of the court or order that sealed any portion of any filing in this action.

If there are any fees for searching or copying these records, please inform me before filling my request. I am willing to pay fees for this request up to a maximum of \$100. If you estimate that the fees will exceed this limit, please inform me first.

Further, I request a waiver of all fees for this request since the disclosure of the information I seek is not primarily in my commercial interest and is likely to contribute significantly to public understanding of the operations or activities of the government, making the disclosure a matter of public interest.

It is coming up on the 20th anniversary of the passing of Terri Schiavo, the woman at the center of the above-captioned case, and there is considerable public interest in this case as that milestone approaches.

As President of the Terri Schiavo Life & Hope Network, a 501(c)(3) entity founded in memory of Terri and a direct family relation, I intend to make certain primary source documents of the case readily accessible to those who might want to research further. Filling this request will further this objective while also being in the public interest.

Should you deny my request, or any part of the request, please state in writing the basis for the denial, including the exact statutory citation authorizing the denial as required by s. 119.07(1)(d), F.S.

I will contact your office within one week to discuss when I may expect fulfillment of my request, and payment of any statutorily prescribed fees. If you have any questions in the interim, you may contact me at: (813) 766-6239 or bschindler@lifeandhope.com.

Thank You,

Bobby Schindler

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