

**IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA**

CASE NO: 2019CA014681XXXXMB AG

CA FLORIDA HOLDINGS, LLC,
Publisher of THE PALM BEACH POST,

Plaintiff,

vs.

DAVE ARONBERG, as State Attorney of
Palm Beach County, Florida, SHARON R. BOCK,
as Clerk & Comptroller, Palm Beach County,
Florida,

Defendants.

**DEFENDANT, SHARON R. BOCK, AS CLERK & COMPTROLLER, PALM BEACH
COUNTY'S ANSWER TO FIRST AMENDED COMPLAINT
AND MOTION TO DISMISS COUNT II**

Defendant, Sharon R. Bock, as Clerk & Comptroller, Palm Beach County (“Clerk”), by and through the undersigned attorney, hereby answers Count I of the First Amended Complaint of Plaintiff, CA Florida Holdings, LLC, Publisher of The Palm Beach Post (“Post”), and files a Motion to Dismiss Count II as follows:

JURISDICTION

1. Admits for jurisdictional purposes.

PARTIES

2. Admits.
3. Admits.
4. Admits.

INTRODUCTION

5. Paragraph 5 contains the Post's statement of the case and legal arguments to which no response is required. To the extent that a response is required, the Clerk is without knowledge or information sufficient to form a belief as to the truth of any factual allegations contained in paragraph 5, and therefore denies the allegations and demands strict proof thereof.

6. Paragraph 6 contains the Post's statement of the case and legal arguments to which no response is required. To the extent that a response is required, the Clerk admits only that section 905.27(1)(c), Florida Statute authorizes the disclosure of grand jury proceedings under certain circumstances.

7. Paragraph 7 contains the Palm Beach Post's statement of the case and legal arguments to which no response is required. To the extent that a response is required, the Clerk is without knowledge or information sufficient to form a belief as to the truth of any factual allegations contained in paragraph 7, and therefore denies the allegations and demands strict proof thereof.

8. Paragraph 8 sets forth the Post's statement of the case and legal arguments to which no response is required. To the extent that a response is required, the Clerk is without knowledge or information sufficient to form a belief as to the truth of any factual allegations contained in paragraph 8, and therefore denies the allegations and demands strict proof thereof.

9. Paragraph 9 sets forth the Post's statement of the case and legal arguments to which no response is required. To the extent that a response is required, the Clerk is without knowledge or information sufficient to form a belief as to the truth of any factual allegations contained in paragraph 9, and therefore denies the allegations and demands strict proof thereof.

FACTUAL BACKGROUND

10. The Clerk is without knowledge or information sufficient to form a belief as to the truth of any factual allegations contained in paragraph 10, and therefore denies the allegations and

demands strict proof thereof.

A. **First Epstein Sex Crimes Investigation, Indictment, and Plea Agreement: 2005-2008.**

11. The Clerk is without knowledge or information sufficient to form a belief as to the truth of any factual allegations contained in paragraph 11, and therefore denies the allegations and demands strict proof thereof.

12. The Clerk is without knowledge or information sufficient to form a belief as to the truth of any factual allegations contained in paragraph 12, and therefore denies the allegations and demands strict proof thereof.

13. The Clerk is without knowledge or information sufficient to form a belief as to the truth of any factual allegations contained in paragraph 13, and therefore denies the allegations and demands strict proof thereof.

14. The Clerk is without knowledge or information sufficient to form a belief as to the truth of any factual allegations contained in paragraph 14, and therefore denies the allegations and demands strict proof thereof.

15. The Clerk is without knowledge or information sufficient to form a belief as to the truth of any factual allegations contained in paragraph 15, and therefore denies the allegations and demands strict proof thereof.

(1) **Police Chief Reiter's Letter to the State Attorney.**

16. The Clerk is without knowledge or information sufficient to form a belief as to the truth of any factual allegations contained in paragraph 16, and therefore denies the allegations and demands strict proof thereof.

17. The Clerk is without knowledge or information sufficient to form a belief as to the truth of any factual allegations contained in paragraph 17, and therefore denies the allegations and

demands strict proof thereof.

(2) The July 2006 State Grand Jury Presentation.

18. The Clerk is without knowledge or information sufficient to form a belief as to the truth of any factual allegations contained in paragraph 18, and therefore denies the allegations and demands strict proof thereof.

19. The Clerk is without knowledge or information sufficient to form a belief as to the truth of any factual allegations contained in paragraph 19, and therefore denies the allegations and demands strict proof thereof.

20. The Clerk is without knowledge or information sufficient to form a belief as to the truth of any factual allegations contained in paragraph 20, and therefore denies the allegations and demands strict proof thereof.

21. The Clerk is without knowledge or information sufficient to form a belief as to the truth of any factual allegations contained in paragraph 21, and therefore denies the allegations and demands strict proof thereof.

22. The Clerk is without knowledge or information sufficient to form a belief as to the truth of any factual allegations contained in paragraph 22, and therefore denies the allegations and demands strict proof thereof.

(3) The FBI's Investigation and Epstein's Non-Prosecution Agreement with Federal Authorities.

23. The Clerk is without knowledge or information sufficient to form a belief as to the truth of any factual allegations contained in paragraph 23, and therefore denies the allegations and demands strict proof thereof.

24. The Clerk is without knowledge or information sufficient to form a belief as to the

truth of any factual allegations contained in paragraph 24, and therefore denies the allegations and demands strict proof thereof.

25. The Clerk is without knowledge or information sufficient to form a belief as to the truth of any factual allegations contained in paragraph 25, and therefore denies the allegations and demands strict proof thereof.

26. The Clerk is without knowledge or information sufficient to form a belief as to the truth of any factual allegations contained in paragraph 26, and therefore denies the allegations and demands strict proof thereof.

27. The Clerk is without knowledge or information sufficient to form a belief as to the truth of any factual allegations contained in paragraph 27, and therefore denies the allegations and demands strict proof thereof.

28. The Clerk is without knowledge or information sufficient to form a belief as to the truth of any factual allegations contained in paragraph 28, and therefore denies the allegations and demands strict proof thereof.

29. The Clerk is without knowledge or information sufficient to form a belief as to the truth of any factual allegations contained in paragraph 29, and therefore denies the allegations and demands strict proof thereof.

30. The Clerk is without knowledge or information sufficient to form a belief as to the truth of any factual allegations contained in paragraph 30, and therefore denies the allegations and demands strict proof thereof.

31. The Clerk is without knowledge or information sufficient to form a belief as to the truth of any factual allegations contained in paragraph 31, and therefore denies the allegations and demands strict proof thereof.

(4) The Crime Victims' Rights Act Litigation.

32. The Clerk is without knowledge or information sufficient to form a belief as to the truth of any factual allegations contained in paragraph 32, and therefore denies the allegations and demands strict proof thereof.

33. The Clerk is without knowledge or information sufficient to form a belief as to the truth of any factual allegations contained in paragraph 33, and therefore denies the allegations and demands strict proof thereof.

34. The Clerk is without knowledge or information sufficient to form a belief as to the truth of any factual allegations contained in paragraph 34, and therefore denies the allegations and demands strict proof thereof.

35. The Clerk is without knowledge or information sufficient to form a belief as to the truth of any factual allegations contained in paragraph 35, and therefore denies the allegations and demands strict proof thereof.

36. The Clerk is without knowledge or information sufficient to form a belief as to the truth of any factual allegations contained in paragraph 36, and therefore denies the allegations and demands strict proof thereof.

37. The Clerk is without knowledge or information sufficient to form a belief as to the truth of any factual allegations contained in paragraph 37, and therefore denies the allegations and demands strict proof thereof.

B. Second Epstein Sex Crimes Investigation, Indictment, Suicide: 2019.

38. Admits.

39. The Clerk is without knowledge or information sufficient to form a belief as to the truth of any factual allegations contained in paragraph 39, and therefore denies the allegations and

demands strict proof thereof.

40. The Clerk is without knowledge or information sufficient to form a belief as to the truth of any factual allegations contained in paragraph 40, and therefore denies the allegations and demands strict proof thereof.

41. The Clerk is without knowledge or information sufficient to form a belief as to the truth of any factual allegations contained in paragraph 41, and therefore denies the allegations and demands strict proof thereof.

42. The Clerk is without knowledge or information sufficient to form a belief as to the truth of any factual allegations contained in paragraph 42, and therefore denies the allegations and demands strict proof thereof.

43. The Clerk is without knowledge or information sufficient to form a belief as to the truth of any factual allegations contained in paragraph 43, and therefore denies the allegations and demands strict proof thereof.

44. Admits

C. The August 27, 2019, SDNY Hearing: Epstein's Victims Speak.

45. The Clerk is without knowledge or information sufficient to form a belief as to the truth of any factual allegations contained in paragraph 45, and therefore denies the allegations and demands strict proof thereof.

46. Admits that United States Senior Judge Richard M. Berman ordered a hearing on August 27, 2019, but the Clerk is without knowledge or information sufficient to form a belief as to the truth of any remaining factual allegations contained in paragraph 46, and therefore denies the allegations and demands strict proof thereof.

47. The Clerk is without knowledge or information sufficient to form a belief as to the

truth of any factual allegations contained in paragraph 47, and therefore denies the allegations and demands strict proof thereof.

48. The Clerk is without knowledge or information sufficient to form a belief as to the truth of any factual allegations contained in paragraph 48, and therefore denies the allegations and demands strict proof thereof.

49. The Clerk is without knowledge or information sufficient to form a belief as to the truth of any factual allegations contained in paragraph 49, and therefore denies the allegations and demands strict proof thereof.

50. The Clerk is without knowledge or information sufficient to form a belief as to the truth of any factual allegations paragraph 50, and therefore denies the allegations and demands strict proof thereof.

51. The Clerk is without knowledge or information sufficient to form a belief as to the truth of any factual allegations contained in paragraph 51, and therefore denies the allegations and demands strict proof thereof.

D. The Palm Beach Post's Standing and the Public Interest.

(1) The Palm Beach Post Has Reported Extensively On Epstein's Crimes For Nearly 15 Years.

52. Admits.

53. Admits.

54. Admits that the Post has extensively investigated and reported on the allegations against, the law enforcement investigation of, and the crimes committed by Epstein, but lacks sufficient knowledge to admit or deny any factual allegations remaining in paragraph 54, and therefore denies the allegations and demands strict proof thereof.

55. The Clerk is without knowledge or information sufficient to form a belief as to the truth of any factual allegations contained in paragraph 55, and therefore denies the allegations and demands strict proof thereof.

(2) The Palm Beach Post's Standing and the Public Interest.

56. Paragraph 56 of the First Amended Complaint contains the Palm Beach Post's statement of the case and legal arguments to which no response is required. To the extent that a response is required, the Clerk admits the press has a constitutional right of access to criminal proceedings, but is without knowledge or information sufficient to form a belief as to the truth of any remaining factual allegations contained in paragraph 56, and therefore denies the allegations and demands strict proof thereof.

57. Paragraph 57 sets forth the Post's statement of the case and legal arguments to which no response is required. To the extent that a response is required, the Clerk is without knowledge or information sufficient to form a belief as to the truth of any factual allegations contained in paragraph 57, and therefore denies the allegations and demands strict proof thereof.

58. Paragraph 58 sets forth the Post's statement of the case and legal arguments to which no response is required. To the extent that a response is required, the Clerk is without knowledge or information sufficient to form a belief as to the truth of any factual allegations contained in paragraph 58, and therefore denies the allegations and demands strict proof thereof.

59. Paragraph 59 of the First Amended Complaint contains the Palm Beach Post's statement of the case and legal arguments to which no response is required. To the extent that a response is required, the Clerk admits that Fla. Stat. 905.27 allows a court to make the determination of disclosure but is without knowledge or information sufficient to form a belief as to the truth of any remaining factual allegations contained in paragraph 59, and therefore denies the allegations and

demands strict proof thereof.

E. The Court's Jurisdiction and Authority.

(1) The Court's Supervision of the Grand Jury Process and Its Authority to Order Public Disclosure of the Epstein Evidence.

60. Paragraph 60 of the First Amended Complaint contains the Palm Beach Post's statement of the case and legal arguments to which no response is required. To the extent that a response is required, the Clerk admits the press has a constitutional right of access to criminal proceedings, but is without knowledge or information sufficient to form a belief as to the truth of any remaining factual allegations contained in paragraph 56, and therefore denies the allegations and demands strict proof thereof.

61. Admits.

62. Admits.

63. Paragraph 63 sets forth the Post's statement of the case and legal arguments to which no response is required. To the extent that a response is required, the Clerk is without knowledge or information sufficient to form a belief as to the truth of any factual allegations contained in paragraph 63, and therefore denies the allegations and demands strict proof thereof.

64. Paragraph 64 of the First Amended Complaint contains the Palm Beach Post's statement of the case and legal arguments to which no response is required. To the extent that a response is required, the Clerk is without knowledge or information sufficient to form a belief as to the truth of any remaining factual allegations contained in paragraph 64, and therefore denies the allegations and demands strict proof thereof.

(2) The Court's Jurisdiction To Declare Rights And Construe Statutes.

65. Admits.

66. Admits.

67. Admits

COUNT I

(Declaratory Relief - Florida Stat. Sections 86.011 *et seq.*)

68. The Clerk & Comptroller reincorporates and re-alleges its prior answers to paragraphs 1 through 67 above.

69. Admits.

70. Paragraph 70 contains the Post's statement of the case and legal arguments to which no response is required. To the extent that a response is required, the Clerk is without knowledge or information sufficient to form a belief as to the truth of any factual allegations contained in paragraph 70, and therefore denies the allegations and demands strict proof thereof.

71. Admits that *The Palm Beach Post* is seeking a declaration from this Court but denies the remainder of Paragraph 71.

72. Admits.

73. Denies.

74. Paragraph 74 contains the Post's legal arguments to which no response is required. To the extent that a response is required, the Clerk is without knowledge or information sufficient to form a belief as to the truth of any factual allegations contained in paragraph 74, and therefore denies the allegations and demands strict proof thereof.

MOTION TO DISMISS COUNT II

(Florida Stat. Section 905.27)

DEFENDANT, Sharon R. Bock, as Clerk & Comptroller, Palm Beach County, pursuant to the Florida Rules of Civil Procedure 1.420, hereby files this Motion to Dismiss Count II of the First

Amended Complaint of Plaintiff, CA Florida Holdings, LLC, Publisher of The Palm Beach Post, and as grounds states as follows:

I. Argument and Standard of Review

a. Plaintiff Fails to State a Cause of Action

To state a cause of action, a complaint must allege sufficient ultimate facts to show that the pleader is entitled to relief. Florida Rules of Civil Procedure 1.110(b) requires “a short and plain statement of the ultimate facts showing that the pleader is entitled to relief.” In reviewing an order granting a motion to dismiss for failure to state a cause of action, the Court must accept as true all well-pled allegations in a complaint, and it must draw all reasonable inferences in favor of the pleader.

Whether a complaint is sufficient to state a cause of action is an issue of law. *W.R. Townsend Contracting, Inc. v. Jensen Civil Construction, Inc.*, 728 So. 2d 297, 299, (Fla. 1st DCA 1999). When a trial court rules on a motion to dismiss, the trial court is confined to the allegations within the four corners of the Complaint, must accept these allegations as true, and may not speculate as to what the true facts may be or what facts may ultimately be proved in the trial of the cause. See *Al-Hakim v. Holder*, 787 So. 2d 939, 941 (Fla. 2d DCA 2001); *Lopez-Infante v. Union Cent. Life Ins. Co.*, 809 So. 2d 13 (Fla. 3d DCA 2002).

The purpose of a motion to dismiss is to determine whether the plaintiff has alleged a viable cause of action. *Hammons v. Buckeye Cellulose Corp.*, 285 So. 2d 7, 10 (Fla. 1973). In fact, “[d]espite the elemental proposition that on a motion to dismiss for failure to state a cause of action all allegations are taken as true, [a] court will not ‘by inference on inference or speculations supply essential averments that are lacking.’” *Alvarez v. E & A Produce Corp.*, 708 So. 2d 997, 1000 (Fla. 3d DCA 1998); see also *Conley v. Shutts & Bowen, P.A.*, 616 So. 2d 523, 524-25 (Fla. 3d DCA 1993).

Taking the facts alleged therein and exhibits attached to the Complaint, Plaintiff failed to

state a cause of action against the Clerk, and therefore, Count II should be dismissed because under no set of facts can the Plaintiff state a cause of action for which relief can be granted.

Admittedly, Fla. Stat. § 905.27, sets forth possible exceptions to the disclosure of grand jury testimony, however Plaintiff is barred by the clear language of the statute from access to the records it seeks for the purposes it has set forth as Fla. Stat. § 905.27(2) states:

When such disclosure is ordered by a court pursuant to subsection (1) for use in a civil case, it may be disclosed to all parties to the case and to their attorneys and by the latter to their legal associates and employees. However, *the grand jury testimony afforded such persons by the court can only be used in the defense or prosecution of the civil or criminal case and for no other purpose whatsoever.*

Here, despite the clear statutory guidelines for disclosure of grand jury materials in a civil case, Plaintiff is improperly seeking the requested 2006 grand jury materials for purposes clearly outside the statutory limitations pursuant to the court's inherent authority and supervisory powers over the grand jury. The statute unambiguously states that grand jury testimony "can only be used in the defense or prosecution of the civil or criminal case and for no other purpose whatsoever", which is distinctly different from Plaintiff's intended purpose for public disclosure of the grand jury evidence. Fla. Stat. § 905.27(2).

CONCLUSION

Here, the Clerk's sole involvement in this action is as the custodian of the record as set forth in section 28.13, Florida Statute. This duty includes keeping grand jury records confidential pursuant to section 905.27, Florida Statute. The Clerk must follow strict statutory guidelines to maintain the record's confidentiality. Further emphasizing the statutory intent of confidentiality, section 905.27, Florida Statute imposes criminal penalties for improper disclosure of grand jury proceedings or identity of persons.

Ultimately, plaintiff's Complaint is an extensive recitation of the factual background

regarding Jeffery Epstein and the testimony and evidence presented to the 2006 grand jury in Palm Beach County, Florida. However, that recitation fails to state a cause of action for which the requested relief can be granted.

WHEREFORE, based on the foregoing argument and supporting authority, Defendant, Sharon R. Bock, as Clerk & Comptroller, Palm Beach County respectfully prays for the Court to grant this Motion to Dismiss Count II of Plaintiff's First Amended Complaint with prejudice, provide direction to the Clerk as needed, and grant such other and further relief as the court deems proper.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing has been emailed in compliance with the Florida Rules of Judicial Administration 2.516, on this 24th day of January, 2020, to: Stephen A. Mendelsohn, Esq., Greenberg Traurig, P.A., 5100 Town Center Circle, Suite 400, Boca Raton, FL 33486, email: mendelsohns@gtlaw.com and Douglas A. Wyler, Esq., 961687 Gateway Blvd., Suite 201-I, Fernandina Beach, FL 32034, email: jacobsscholzlaw@comcast.net.

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BY: *s/Hampton C. Peterson*
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