

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

NO. 08-80381-CIV-MARRA/JOHNSON

JANE DOE NO. 5,

Plaintiff,

v.

JEFFREY EPSTEIN,

Defendant.

ORDER DENYING MOTION TO SEAL

THIS CAUSE comes before the Court on Defendant Jeffrey Epstein's Motion to File Ex Parte and Under Seal, filed July 10, 2008. Defendant seeks to file a Notice of Continued Pendency of Federal Criminal Action under seal.¹ The Court has carefully considered the motion and the record and is otherwise fully advised in the premises.

As stated in the Local Rules for the Southern District of Florida, "proceedings in the United States District Court are public and Court filings are matters of public record." S.D. Fla. L.R. 5.4(A). It is well settled that the media and the public in general possess a common-law right to inspect and copy judicial records. *See Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 597 (1978). "The right to inspect and copy records is not absolute, however. As with other forms of access, it may interfere with the administration of justice and hence may have to be curtailed." *Newman v. Graddick*, 696 F.2d 796, 803 (11th Cir.1983). This right of access creates

¹All documents filed conventionally shall henceforth be filed directly with the Office of the Clerk in West Palm Beach, Florida. The parties shall *not* file documents conventionally in any other division of the Southern District of Florida.

a presumption in favor of openness of court records, which “must be balanced against any competing interest advanced.” *United States v. Noriega*, 752 F. Supp. 1037, 1040 (S.D. Fla. 1990). For example, courts may look to see whether the records sought are for illegitimate purposes. *Newman*, 696 F.2d at 803. Likewise, the Court may consider whether “the press has already been permitted substantial access to the contents of the records.” *Id.*

In his motion to seal, Defendant has made no argument as to why his Notice of Continued Pendency of Federal Criminal Action should not be made available to the public. Defendant states only that he wishes “[t]o avoid disclosure of confidential material.” (Def. Mot. 2.) The Court finds this justification insufficient to justify keeping this document (filed *ex parte*) under seal. The Court is supported in this conclusion by its decision in a similar case, *In re: Jane Doe*, No. 08-80736-CIV (S.D. Fla. July 11, 2008), in which the Court unsealed, over the objection of the United States Attorney, documents containing similar information regarding Defendant’s criminal plea agreement. Thus, any argument regarding confidentiality is vitiated by the fact that information regarding Defendant’s criminal plea arrangement is already a matter of public record. See, e.g., Sally Apgar, *Victims Object to Palm Beach Billionaire’s Plea Deal in Underage Sex Case*, S. Fla. Sun-Sentinel, July 12, 2008. Similarly, Defendant has not justified the necessity of filing his Notice *ex parte*. As such, Defendant’s Motion to Seal shall be denied.

Accordingly, it is **ORDERED AND ADJUDGED** that Defendant’s Motion to File Ex Parte and Under Seal is **DENIED**. The Clerk shall **UNSEAL** docket entries 23 and 24 and make them available for public inspection through CM/ECF at the earliest possible time. Defendant is further **ORDERED** to serve a copy of his Notice on Plaintiff within five (5) days of the date of

entry of this Order.

DONE AND ORDERED in Chambers at West Palm Beach, Palm Beach County, Florida, this 16th day of July, 2008.



KENNETH A. MARRA
United States District Judge

Copies furnished to:
all counsel of record