

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
COLUMBUS DIVISION

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LEIGH ANN YOUNGBLOOD-WEST,

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Plaintiff,

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vs.

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AFLAC INCORPORATED, WILLIAM  
LAFAYETTE AMOS, JR., CECIL  
CHEVES, SAMUEL W. OATES, and  
DANIEL P. AMOS,

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CASE NO. 4:18-CV-83 (CDL)

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Defendants.

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O R D E R

Over 25 years ago, Leigh Ann Youngblood-West made allegations against William Lafayette Amos, Jr. ("Dr. Amos") and threatened to sue him. Dr. Amos paid her a substantial sum, and in exchange, she released him from any liability related to her claims. She also agreed that the settlement, including the substance of her claims, would remain confidential. Today, Youngblood-West seeks to resurrect her quarter-of-a-century old claims against Dr. Amos while also asserting related claims against four additional defendants. When Dr. Amos and his co-defendants refused her recent monetary demand, she sued them, [REDACTED]

Defendants have moved to dismiss the claims based on the statute of limitations, release, and failure to state a claim.

Before Youngblood-West's present action was filed, the Court in related litigation directed that it be filed under seal because of the settlement agreement between Youngblood-West and Dr. Amos, which included a confidentiality agreement. The Court subsequently found in that related litigation that the settlement agreement, including the confidentiality agreement, was enforceable under Georgia law. The Court further ordered that filings in these proceedings shall remain under seal until the Court received further briefing from the parties on the sealing issue. That briefing is now complete. The brief of Youngblood-West's counsel resembles a rant with *ad hominem* attacks on the parties and predictions of shame that will inevitably befall the undersigned if he refuses to completely unseal the record. Dr. Amos's counsel acknowledges the presumption in favor of full public access but makes a strong case for limited public disclosure under the unique circumstances presented here. Having considered the arguments of the parties and the applicable law, the Court makes the following findings and reaches the following conclusions.

#### BACKGROUND

According to Dr. Amos's complaint for breach of the confidentiality agreement, Youngblood-West retained counsel in 1992 to pursue legal claims against him. Dr. Amos and Youngblood-

West eventually entered into an agreement under which Youngblood-West released Dr. Amos from liability in exchange for a sum of money (the "1992 Settlement Agreement"). Compl. ¶¶ 5-6, *Amos v. Youngblood-West*, No. 4:18-CV-68 (M.D. Ga. Apr. 16, 2018), ECF No. 2 [hereinafter *Amos Compl.*]; *id.* Ex. A, 1992 Settlement Agreement 1-2, ECF No. 2-1. In 1993, Youngblood-West retained new counsel to pursue additional claims against Dr. Amos and others. *Amos Compl.* ¶ 9. This dispute resulted in Youngblood-West signing another settlement agreement for which she received an additional sum of money (the "1993 Settlement Agreement"). *Id.* ¶¶ 10-11; *id.* Ex. B, 1993 Settlement Agreement 1, 6, ECF No. 2-2. Both the 1992 and the 1993 Settlement Agreements contain confidentiality provisions prohibiting Youngblood-West from disclosing certain matters about the released claims and the agreements to others. 1992 Settlement Agreement 1-2; 1993 Settlement Agreement ¶ 6. The confidentiality agreement specifically provided that Youngblood-West would:

maintain at all time the confidentiality of [the settlement agreement] and shall not reveal to anyone . . . the alleged acts or omissions giving rise to [her] claim against any party released hereby, or any other matter relevant to such claims, the fact or existence of this release agreement, any of the terms of this release agreement or any of the amounts, numbers or terms and conditions of any sums payable to the undersigned hereunder or previously paid pursuant to a prior release agreement between the undersigned and the parties being released hereby, unless compelled to do so by Court Order; and further, that if asked about any such matters [REDACTED]

██████████, the undersigned shall refuse to discuss them.

1993 Settlement Agreement ¶ 6. The parties further agreed that a breach of the confidentiality agreement would cause “irreparable” damage with no adequate legal remedy. *Id.* ¶ 7.

At some point, Youngblood-West became dissatisfied with the settlements and sought legal advice from her current lawyer, Mr. Joffe. Joffe also represents AFLAC shareholders in an unrelated derivative suit against AFLAC executives and board members that was recently dismissed by this Court. See Order (Aug. 31, 2018), *Conroy v. Amos*, No. 4:18-CV-33 (M.D. Ga. Feb. 12, 2018), ECF No. 63. In March of this year, Joffe sent AFLAC’s lawyers in that matter a demand letter threatening to file suit on behalf of Youngblood-West against AFLAC, Dr. Amos, and others unless they paid Youngblood-West ██████████. *Amos Compl.* ¶¶ 18, 20; see generally *id.* Ex. C, Letter from D. Joffe to L. Cassilly *et al.* (Mar. 16, 2018), ECF No. 2-3. AFLAC rejected the demand, and Dr. Amos’s counsel sent Joffe copies of the 1992 and 1993 Settlement Agreements. *Amos Compl.* ¶¶ 22-23. Then, on Saturday, April 14, 2018, Joffe sent an email to AFLAC’s lawyers and Dr. Amos’s counsel containing a draft of a complaint which he threatened to file “first thing Monday am.” *Id.* ¶ 24; *id.* Ex. D, Email from D. Joffe to J. Grant *et al.* (Apr. 14, 2018), ECF No. 2-4; see generally *id.* Ex. E, Draft ██████████ Complaint, ECF No. 2-5. Joffe emailed the

lawyers the following day and said, "Your clients have 12 hours left to decide whether they wish to have this dispute resolved in court." Amos Compl. ¶ 27; *id.* Ex. F, Email from D. Joffe to L. Cassilly *et al.* (Apr. 15, 2018), ECF No. 2-6.

That same day, before Youngblood-West could file her complaint on the public docket, Dr. Amos filed an action in this Court, alleging that Youngblood-West's demand letter and the draft complaint contained confidential information under the 1992 and 1993 Settlement Agreements and that Youngblood-West breached those agreements when Joffe sent the demand letter and draft complaint to AFLAC's lawyers on her behalf. Amos Compl. ¶¶ 19, 21, 25-26. Dr. Amos also filed an emergency ex parte motion for a temporary restraining order ("TRO") seeking to prevent the public filing of the draft complaint and related materials. See Pl.'s Mot. for TRO 1-2, *Amos v. Youngblood-West*, 4:18-CV-68 (M.D. Ga. Apr. 16, 2018), ECF No. 1.

Instead of ruling on the motion ex parte, the Court notified Joffe and held a hearing by telephone conference first thing the following Monday morning. Order 1 (Apr. 16, 2018), *Amos v. Youngblood-West*, No. 4:18-CV-68 (M.D. Ga. Apr. 16, 2018), ECF No. 3. After the hearing and based on a review of the draft complaint and the 1992 and 1993 Settlement Agreements, the Court found that Dr. Amos had shown a substantial likelihood that the public filing of the draft complaint would violate the confidentiality

provisions of the settlement agreements, that Dr. Amos would suffer irreparable injury by the public disclosure of such confidential information, and that the public interest would not be harmed by granting temporary injunctive relief. *Id.* at 2-3. Noting the presumption in favor of public access to court proceedings and related documents, the Court then balanced the public's interest in disclosure against the legitimate interests of the parties, including the potential loss of Dr. Amos's bargained-for privacy. *Id.* at 3. The Court found that requiring Youngblood-West to file her complaint and related materials under seal was appropriate because the parties had previously agreed pursuant to their prior settlement that such matters would remain confidential and because the harm to the public's interest in disclosure was reduced in light of the temporary nature of the restriction on public access. *Id.*

The Court ordered temporary injunctive relief as follows: (1) restricting access to any documents filed in *Amos v. Youngblood-West*, No. 4:18-CV-68 (M.D. Ga. Apr. 16, 2018) to the parties to that action, their counsel, and court personnel; (2) requiring Youngblood-West to file any matters related to her threatened draft complaint, including the complaint itself, under seal; and (3) prohibiting Youngblood-West and anyone acting on her behalf from publicly disclosing or discussing the subject matter

of her threatened draft complaint and any other documents required to be sealed or restricted by the Court's order. *Id.* at 3-4.<sup>1</sup>

Youngblood-West subsequently filed her complaint under seal as directed by the Court. See Compl., *Youngblood-West v. AFLAC Incorporated et al.*, No. 4:18-CV-83 (M.D. Ga. May 1, 2018), ECF No. 1. In that complaint, which initiated this present action, she asserts claims against Dr. Amos, Daniel P. Amos, Cecil Cheves, Samuel Oates, and Aflac. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Defendants have filed motions to dismiss her Complaint and have notified Joffe of their intention to seek Rule 11 sanctions against him. Those motions are pending and will be decided in due course. The present issue before the Court is the extent to which the filings in this litigation should remain under seal.<sup>2</sup>

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<sup>1</sup> The temporary injunctive relief does not prohibit Youngblood-West from discussing matters related to the present action or the draft complaint with Joffe or reporting other specifically identified matters. Order 4 (Apr. 16, 2018), *Amos v. Youngblood West*, No. 4:18-CV-68 (M.D. Ga. Apr. 16, 2018), ECF No. 3.

<sup>2</sup> The Court has consolidated *Amos v. Youngblood West*, No. 4:18-CV-68 (Dr. Amos's breach of confidentiality agreement action) and *Youngblood-West v. AFLAC et al.*, No. 4:18-CV-83 (Youngblood-West's RICO/fraud action), with Dr. Amos's claims in 4:18-CV-68 being treated as counterclaims in 4:18-CV-83. See Order, 4:18-CV-68 (ECF No. 35) and 4:18-CV-83 (ECF No. 57) (Sept. 6, 2018).

DISCUSSION

The public certainly has a right of access to documents filed in a federal court. Federal courts are public institutions and cannot retain the confidence of the people if they operate under a cloak of secrecy. This important right is well recognized by federal and state courts. *See, e.g., Atlanta Journal v. Long*, 369 S.E.2d 755, 757 (Ga. 1988) (“[T]he public and the press have traditionally enjoyed a right of access to court records. Public access protects litigants both present and future, because justice faces its gravest threat when courts dispense it secretly. Our system abhors star chamber proceedings with good reason. Like a candle, court records hidden under a bushel make scant contribution to their purpose.”); *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 571 (1980) (“The crucial prophylactic aspects of the administration of justice cannot function in the dark.”); *Chi. Tribune Co. v. Bridgestone/Firestone, Inc.*, 263 F.3d 1304, 1311 (11th Cir. 2001) (per curiam) (“The common-law right of access to judicial proceedings, an essential component of our system of justice, is instrumental in securing the integrity of the process.”).

But the right of public access is not absolute. As with many important rights, the right to unfettered public access sometimes conflicts with other rights that may be equally compelling. In these circumstances, the Court must engage in the often-difficult

task of balancing the conflicting interests. See, e.g., *Romero v. Drummond Co.*, 480 F.3d 1234, 1245-46 (11th Cir. 2007) (explaining that courts must “balanc[e] the asserted right of access against the other party’s interest in keeping the information confidential” and that “[a] party’s privacy . . . interest in information sometimes overcomes the interest of the public in accessing the information”).

Here, two important interests conflict with the right of wide-open public access. One is the private interest of Dr. Amos to retain the benefit of his bargained-for confidentiality agreement. If the subject matter of his settlement is publicly disclosed, then he has permanently lost part of what he paid for when he settled Youngblood-West’s claims. And the injury caused by that disclosure is irreparable. No amount of money can compensate for such a loss of privacy. To allow the right of access to trump this important interest of Dr. Amos facilitates Youngblood-West’s alleged breach of her agreement for which she was compensated. Further, allowing these confidential matters to be publicly disclosed also impinges upon the public’s strong interest in the enforceability of contracts. If a party to a contract can abandon her obligation simply by filing a public lawsuit, then others will be less willing to enter into confidentiality agreements because they will know that they can be side-stepped simply by filing a lawsuit with allegations about the confidential subject matter.

See *Savannah Coll. of Art & Design v. Sch. of Visual Arts, Inc.*, 515 S.E.2d 370, 372 (Ga. 1999) (“To hold that the private nature of a settlement agreement is lost once the document is filed in the trial court places litigants in the unusual dilemma of having to waive an agreement’s confidentiality in order to enforce it.”).

The Court therefore finds that there are important conflicting interests to be considered here. Balancing these interests does not require that the Court take an “all or nothing” approach. There are different levels of public access. And the case law recognizes that some restrictions are more suspect than others. See, e.g., *Chi. Tribune Co.*, 263 F.3d at 1311 (“In certain narrow circumstances, the common-law right of access demands heightened scrutiny of a court’s decision to conceal records from the public and the media.”). When a court “conceals the record of an entire case, making no distinction between those documents that are sensitive or privileged and those that are not,” the denial of public access must be “‘necessitated by a compelling governmental interest, and . . . narrowly tailored to that interest.’” *Id.* (quoting *Wilson v. Am. Motors Corp.*, 759 F.2d 1568, 1571 (11th Cir. 1985)); see also *Brown v. Advantage Eng’g, Inc.*, 960 F.2d 1013, 1015-16 (11th Cir. 1992) (restating the compelling government interest and narrow tailoring requirements); *Hicklin Eng’g v. Bartell*, 439 F.3d 346, 348 (7th Cir. 2006) (“The [district] judge did not explain what authority permits a federal

court to issue entire opinions in secret. Redacting portions of opinions is one thing, secret disposition quite another. We have insisted that litigation be conducted in public to the maximum extent consistent with respecting . . . facts that should be held in confidence. This means that both judicial opinions and litigants' briefs must be in the public record, if necessary in parallel versions--one full version containing all details, and another redacted version with confidential information omitted."), *abrogated on other grounds by RTP LLC v. Orix Real Estate Capital, Inc.*, 827 F.3d 689 (7th Cir. 2016); *United States v. Valenti*, 987 F.2d 708, 715 (11th Cir. 1993) (noting in criminal case that "district court's denial of [newspaper's] motion to unseal must be supported with a finding that the denial of access is necessary to preserve higher values, and is narrowly tailored to serve that interest"); *The Hartford Courant Co. v. Pellegrino*, 380 F.3d 83, 96 (2d Cir. 2004) (holding public has qualified First Amendment right to access docket sheets that can be overcome by a compelling government interest that is narrowly tailored to that interest and collecting cases).

Balancing these interests and in an attempt to narrowly tailor an approach that reconciles them, the Court makes the following findings:

1. Allowing the public to know the names of the parties to this litigation does not disclose the nature of the litigation and

thus does not unreasonably diminish the expectations of the parties to the confidentiality agreement. The confidentiality agreement seeks to protect the existence of the settlement and its subject matter; not the fact that Youngblood-West and the other parties to this litigation are involved in litigation presently. To allow the parties' names to remain a secret would prevent the public from knowing who the Court is making decisions about, including parties who are not even covered by the confidentiality agreement. Therefore, the names of the parties, their counsel and the case number should not be restricted from public access. The Court understands that such disclosure could theoretically lead to an infringement upon Dr. Amos's bargained for right of privacy, but to hold otherwise, would have the practical effect of denying meaningful public access altogether. Limiting the public docket to redacted motions, briefs, and orders *involving unnamed parties* tells the public too little. The Court understands that Dr. Amos may not get *all* that he bargained for due to the important interest of permitting public access.

2. The public has a right to know when a party makes a filing that asks the Court to take some official action and when a response to that motion is made. Therefore, the docket should reflect when such filings are made. The description of the

filings, however, should remain generic, so that the subject matter of the motion is not specifically disclosed without proper redaction.

3. The legitimate private interests of Dr. Amos and the public interest in the enforcement of contracts, along with the strong public interest in access to parties' motions, responses to those motions, and the Court's Orders deciding those motions, can best be balanced with a redaction protocol, as described in the remainder of this Order.<sup>3</sup>

Based on the foregoing, the Court orders that the following process shall apply in the consolidated cases of *Amos v. Youngblood-West*, No. 4:18-CV-68 and *Youngblood-West v. AFLAC et al.*, No. 4:18-CV-83:

1. The existence of the actions, including the names of the parties, their counsel, and the designated case numbers, shall appear on the public docket.
2. All future filings shall be made in the consolidated case which is case number 4:18-CV-83.

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<sup>3</sup> Part of the Court's hesitancy in opening the file for full public access at this stage of the litigation arises from having not had an opportunity to rule on Defendants' motions to dismiss *Youngblood-West's* complaint. If the Court unsealed the record in its entirety today, and yet later ruled that *Youngblood-West's* claims are barred by the statute of limitations, have been released, or do not even state a claim (or even worse are frivolous), then Dr. Amos will have lost the benefit of his confidentiality agreement because of the mere filing of a lawsuit that turned out to be meritless.

3. A docket entry for each filing will appear on the public docket with the following generic descriptions: [Party's Name] Motion, [Party's Name] Response to Motion, and Order. If a filing falls into some category other than the above, the Clerk shall consult with the undersigned before making the public docket entry.
4. Future orders of the Court will be made available on the public docket with appropriate redactions. The full unredacted version shall be docketed under seal with access restricted to the parties, their counsel, and court personnel. Before a redacted version is docketed on the public docket, the parties shall have an opportunity to propose redactions. Within five business days of the unredacted order being docketed under seal, the parties shall file under seal a proposed redacted version of the order, including a brief description of the reasons supporting redaction. Thereafter, if the Court determines that redaction is appropriate, the Court will make the appropriate redactions and have the redacted version docketed on the public docket. If the Court determines that redaction is not appropriate, the Court will direct the Clerk to unseal the unredacted order.

5. Past orders have been docketed in redacted form and the unredacted versions of those orders shall remain under seal until further order of the Court.
6. The parties shall continue to make unredacted filings under seal by emailing them to the Clerk, who will then docket the filings with access restricted to the parties, counsel, and court personnel. Simultaneously with the emailing of the unredacted version of the filing, the filing party shall email to the Clerk a proposed redacted version of the filing. The Clerk will docket the redacted version with access restricted to the parties, counsel, and court personnel. Within five business days of the docketing of the redacted filing, any party may file a response to the redactions, specifying concerns about over-redaction or under-redaction. These responses shall be emailed to the Clerk who will docket the responses with access restricted to the parties, counsel, and court personnel. The responses and the proposed redacted versions of the filings shall remain restricted until the Court determines whether a redacted version should be docketed on the public docket.

#### CONCLUSION

[REDACTED]

[REDACTED]. But twenty-five years ago Youngblood-West signed an agreement not to publicly air those allegations in exchange for a

substantial monetary payment. Importantly, the Court has previously rejected her counsel's arguments that the agreement is unenforceable. And notwithstanding the strong public interest in full public access to the filings in this zealously contested litigation, the Court cannot ignore the legitimate opposing interests that arise from a confidentiality agreement that on its face is enforceable. Balancing the relevant interests, the Court finds that the modified sealing/redaction protocol specified in this Order is appropriate. Today's Order shall be filed under seal and subject to the redaction protocol described hereinabove.<sup>4</sup>

IT IS SO ORDERED, this 7th day of September, 2018.

S/Clay D. Land

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CLAY D. LAND

CHIEF U.S. DISTRICT COURT JUDGE  
MIDDLE DISTRICT OF GEORGIA

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<sup>4</sup> The unsealing of the names of the parties on the public docket shall also be delayed until after the Court receives the parties' requests for redaction of today's order pursuant to the redaction protocol.