



OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215
P.O. BOX 1688

MADISON, WISCONSIN 53701-1688

Telephone (608) 266-1880
TTY: (800) 947-3529
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

DISTRICT II

December 5, 2018

To:

Hon. Eugene A. Gasiorkiewicz
Circuit Court Judge
Racine County Courthouse
730 Wisconsin Ave.
Racine, WI 53403

Samuel A. Christensen
Clerk of Circuit Court
Racine County Courthouse
730 Wisconsin Avenue
Racine, WI 53403

Michael J. Cohen
Dieter J. Juedes
Meissner Tierney Fisher & Nichols, S.C.
111 E. Kilbourn Ave., Ste. 1900
Milwaukee, WI 53202-6622

Mark R. Hinkston
Knuteson, Hinkston & Quinn, S.C.
500 College Ave.
Racine, WI 53403

James A. Friedman
Brady C. Williamson Jr.
Godfrey & Kahn, S.C.
P.O. Box 2719
Madison, WI 53701-2719

Brian Christopher Spahn
Godfrey & Kahn SC
833 E. Michigan St., Ste. 1800
Milwaukee, WI 53202

You are hereby notified that the Court has entered the following order:

2018AP1189

Sandra J. Weidner v. City of Racine (L.C. # 2017CV1644)

Before Reilly, P.J., Gundrum and Hagedorn, JJ.

The Milwaukee Journal Sentinel, USA Today Network-Wisconsin, the Wisconsin Freedom of Information Council, the Wisconsin Newspaper Association, and the Wisconsin Broadcasters Association (collectively, the "News Media") move, pursuant to WIS. STAT. § 809.13, to intervene in this appeal, and for an order granting their counsel access to the circuit court record filed on appeal for the purpose of filing a brief addressing whether the circuit court appropriately sealed the entire circuit court record. The City of Racine opposes the motion, and

the News Media has filed a reply. Having considered the pleadings, we determine that intervention is appropriate and will grant the News Media's motion to intervene.

The circuit court previously determined that some of the documents in the underlying action were privileged and that others were not privileged. Prior to making its decision regarding what records were privileged, the circuit court sealed the entire court record, and later included the final judgment and decision underlying the current appeal in its order. The general rule in Wisconsin is that all court filings are presumptively open for public inspection. See *State ex rel. Three Unnamed Petitioners v. Peterson*, 2015 WI 103, ¶89, 365 Wis. 2d 351, 875 N.W.2d 49 (“The general rule is that court filings are presumptively open for public inspection. Placing filings under seal is the exception to the rule.”). It appears to this court that the circuit court's order sealing the entire record is, at the very least, broader than necessary to protect the interests at stake, given the presumption of openness in public records.¹

We remand the record to the circuit court with directions to determine which specific documents in the circuit court record should be sealed from public view, if any, and whether the circuit court docket should remain sealed. The News Media shall be allowed to participate in further proceedings related to whether record items are appropriately sealed from public view. Until further court order, all submissions to this court, including the briefs, will be sealed. Therefore,

¹ At this stage, our order is intended to facilitate the News Media's intervention. We take no position on the propriety of the circuit court's decision determining that certain documents were privileged and that other documents were not privileged.

IT IS ORDERED that the News Media's motion to intervene is granted. The caption is amended to reflect that the Milwaukee Journal Sentinel, USA Today Network-Wisconsin, the Wisconsin Freedom of Information Council, the Wisconsin Newspaper Association, and the Wisconsin Broadcasters Association, are intervenor-appellants.

IT IS FURTHER ORDERED that the matter is remanded to the circuit court under WIS. STAT. § 808.075(6), with directions to determine which specific documents in the circuit court record should be sealed from public view, if any, and whether the circuit court docket should remain sealed; and that the circuit court shall conduct the necessary proceedings and enter its post-remand decision within sixty days of the date of this order.

IT IS FURTHER ORDERED that the clerk of the circuit court shall return the record, including any additional portions pertaining to the remand, *see* WIS. STAT. § 808.075(7), to this court within fourteen days of the decision on remand. The circuit court clerk shall ensure that the record accurately reflects which specific documents or portions thereof are sealed.

IT IS FURTHER ORDERED that the appellant and the intervenor-appellants shall file their opening briefs within thirty days after the return of the record to this court.

Sheila T. Reiff
Clerk of Court of Appeals