

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

**IN THE MATTER OF THE CONSERVATION OF
NEXTLEVEL HEALTH PARTNERS, INC.**

Jacqueline Stevens, Intervenor, *Pro Se*

2020 CH 04431

MOTION FOR POSTPONEMENT OF FINAL ORDER

Introduction

In light of new documents disclosed to Intervenor Jacqueline Stevens (“Intervenor”) following oral argument on June 8, 2022 and the stated intention of this court to issue an oral decision on this case on June 13, 2022 at 2 p.m., Intervenor respectfully requests a postponement of the court’s order so as to permit consideration of new evidence acquired from NextLevel Health Partners, Inc. (“NextLevel”) that bears directly on Intervenor’s arguments for declaratory relief in her First Amended Motion (“FAM”) and proposed Supplemental Motion filed on June 8, 2022 as Exhibit A to her Motion for Leave to File Supplemental Motion (“Proposed Supplemental Motion”). Intervenor seeks a rehearing of oral argument and admission of additional briefing in order to present new evidence.

Intervenor, *pro se*, truly does not want to spend another minute on these proceedings, but is even more averse to rewarding NextLevel attorneys for ongoing outrageous conduct that goes to the public access dispute at the very heart of this controversy. Indeed a letter from attorney Stephen Schwab (“Schwab”) to the Honorable Pamela M. Meyerson, June 9, 2022, “June 9th Letter” (“Exhibit 1”) is seeking a ruling responsive to the Proposed Supplemental Motion, but

was shared only with the court's chambers and parties to this case is in violation of 735 ILCS 2-615 ("All objections to pleadings shall be raised by motion.") *John G. Phillips & Associates v. Brown*, 757 N.E.2d 875, 877 (2001) ("Rule 137, which permits parties to request sanctions for improper filings, explicitly provides that '[a]ll proceedings under this rule shall be brought within the civil action in which the pleading, motion or other paper referred to has been filed, and no violation or alleged violation of this rule shall give rise to a separate civil suit, but shall be considered a claim within the same civil action.'" (Emphases added.) ... In this regard, filing a Rule 137 motion is the functional equivalent of adding an additional count to a complaint, or counter-claim, depending on which party files the motion." Citation omitted.)

In response to statements in Intervenor's Supplemental Motion filed June 8, 2022 ("Supplemental Motion"), NextLevel disclosed for the first time evidence that, *first*, NextLevel was indeed trying to make use of the Confidentiality Provisions after the sequestration order was lifted, an action that directly contradicts NextLevel's arguments on the mootness of Intervenor's constitutional arguments; and *second*, additional evidence that shows DLA Piper failed to file the redacted Complaint and redacted Conservation Order of June 9, 2020 until May 5, 2020, thus undermining NextLevel's claims about the importance of keeping secret information in these records and financial records more generally, as now permitted by the Confidentiality Provisions Intervenor seeks to have declared unconstitutional. In addition, Intervenor deserves an opportunity to respond to the letter of June 9, 2022 that DLA Piper sent to the court.

Proceeding History

On November 29, 2021, this court issued an order ("Lift and Seal Order") lifting the stay on ending sequestration and granting NextLevel's motion to file exhibits under seal and replace

the original Complaint of June 3, 2020 (“Complaint”) and order of June 9, 2020 (“2020 Order”) with versions that had portions redacted. On December 6, 2021, the court issued an order granting Jacqueline Stevens Intervenor status for the purpose of making arguments about the “public nature of these proceedings.” Intervenor filed her First Amended Motion (“FAM”) on January 31, 2022. On March 14, 2022, NextLevel filed its opposition response (“NextLevel Response”). On March 21, 2022 the People of Illinois representing the DOI filed its Opposition Response motion (“DOI Response”). Intervenor on April 4, 2022 filed a motion to obligate parties to notice all motions to Intervenor and to declare public all records for 2020 CH 04431 previously released by Chancery Division (“Motion to Notice and Declare Public”). On April 26, 2022, NextLevel filed a Sur-Reply. On June 8, 2022, Intervenor filed a “Proposed Supplemental Motion” containing new evidence, a Sur-Sur Reply, and a motion for sanctions. Later that day, oral argument was held on the briefings. The presentment of the Proposed Supplemental Motion is calendared for 9:30 a.m. on June 13, 2022 and the oral decision was set on June 8, 2022 for June 13, 2022 at 2 p.m.

Relevance of New Evidence to First Amended Motion

First, after the court lifted the sequestration order for the entire proceedings, NextLevel on December 1, 2021 submitted a draft order that attempted to rely on the Confidentiality Provisions to withhold information from the court record of proceedings: “B. NextLevel has demonstrated that it is entitled to continued sequestration of the redacted information referenced in Paragraphs 2 and 3 of this Order.” NextLevel Partial Sequestration Draft Order, December 1, 2022, “Exhibit 2.” This effort to continue to make use of the Confidentiality Provisions after

sequestration had been terminated directly refutes NextLevel's argument in its Opposition

Response:

[T]he Sequestration Statute no longer 'affect[s] the parties' because the Lift Order removed the protection granted by the Sequestration Statute ... Although the Seal Order declares that certain documents redacted or under seal, the Court did not rely on the Sequestration Statute to issue it....Intervenor's request to strike down the Sequestration Statute is merely a request for an 'advisory opinion[], which Illinois courts are not permitted to render.'" NextLevel Response, 5-6, citations omitted.

Further, Intervenor in her Reply stated, "As long as the Confidentiality Provisions remain in place, NextLevel or the DOI can invoke the participation of a new claimant, party, or facts and pursue a new order obligating sequestration in this proceeding going forward, thereby depriving the public and thus Intervenor access to court records and hearings going forward." Intervenor Reply, 4-5.

NextLevel's draft order of December 1, 2021, released by NextLevel to Intervenor on June 10, 2022 only pursuant to her request, is new evidence. Email from Schwab to Stevens, June 10, 2022, "Exhibit 2A." The NextLevel Partial Sequestration Draft Order shows NextLevel indeed attempted to rely on the Confidentiality Provisions after the order of November 29, 2021 ending sequestration, crucial evidence for rebutting NextLevel's mootness argument and supporting Intervenor's claim that her constitutional concerns are not the least bit speculative much less hypothetical.

Second, NextLevel email released to Intervenor on June 9, 2022 is further evidence that DLA Piper failed to file the redacted Complaint and redacted Conservancy Order of June 9, 2020 but claimed otherwise. When Mr. Schwab on May 5, 2022 sought to file these redacted documents, he did so through DLA Piper's docket clerk who, on information and belief, made use of the electronic filing system. Schwab to Stevens Email, May 5, 2022, "Exhibit 3." The

email of December 1, 2021 produced to Intervenor on June 9, 2022 provides no evidence of a filing with the Circuit Court of Cook County, but is an email to the court's chambers associated with a proposed draft order. Email from Schwab to Judge Meyerson's clerk, December 1, 2021, "Exhibit 4." The email does not request that the recipient file the attached records with the Cook County Circuit Court and, most importantly, Mr. Schwab has produced no records indicating that he or anyone in his office pursued efforts to ascertain the records with the supposedly sensitive material had been removed. The emails supposedly proving DLA Piper's due diligence suggest the opposite, especially the lack of any documentation of correspondence with the Cook County Circuit Court Chancery Division clerks in early December, 2021 or any other time frame. Indeed, NextLevel has not disputed that as of May 26, 2022, the unredacted Complaint and unredacted June 2020 Order still were accessible via the public terminals on the eighth floor of the Daly Center.

When Intervenor was technically incapable of filing her Intervenor petition into the Odyssey system as a result of the case being sequestered, and attempted to file her petition by submitting her motion directly to the Judge Meyerson's chambers via the same email address used by Schwab on December 1, 2021, this effort was not successful. Email from Stevens to Judge Meyerson's Chambers, August 24, 2021, "Exhibit 5."

A postponement of an oral decision so as to allow the court to consider the points stated above is in the interests of justice and consistent with the holdings on continuances. *See Kehrer v. Kehrer* 28 Ill. App.2d 296, 298 (1960). ("[T]he court should not refuse a continuance when the ends of justice clearly require it...[D]iscretion will be properly invoked if it is based upon principles of right and wrong and is exercised for the prevention of injury and the furtherance of

justice...” citations omitted. Further, as was the case in *Yelm v. Masters*, 81 Ill. App.2d 186, 192-3 (1967), a postponement in a final order will not prejudice opposing parties. Finally, any tension between speed and justice should be resolved in favor of the latter. See *Ullmen v. Dept. of Registration and Educ.* 67 Ill. App.3d 519, 522 (1978) (“While justice and speed are not mutually exclusive, if a judicial or quasijudicial body must choose between the two, it must pick the side of justice ... And, while a court or administrative body possesses broad discretion in deciding whether to allow a motion for a continuance, it has been said that this discretion must be exercised judiciously, not arbitrarily. A continuance required by the ends of justice should not be denied...” citations omitted.)

It is possible that the only appropriate manner for handling the new evidence in this case and the extent of the records that should be released is through a Second Amended Motion, a possibility that will also require the postponement of an oral order in this case.

Respectfully Submitted,
/s/ Jacqueline Stevens
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VERIFICATION

I, the undersigned, swear under penalty of perjury, as provided by law under Section I-109 of the Illinois Rule of Civil Procedure, that the statements contained in this motion are true and correct to the best of my knowledge and belief, except where I lack sufficient knowledge to form a belief of the truth of the allegations, where so stated.

A handwritten signature in blue ink, appearing to read 'J. Stevens', with a long horizontal stroke extending to the right.

Jacqueline Stevens

Certificate of Service

I certify that on June 12, 2022, I caused the foregoing document to be filed and served on all counsel of record.