IN THE
DISTRICT OF COLUMBIA COURT OF APPEALS

NO. 21-CV-735

SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA
NO. 2020 CA 3854 B

SANTORINI CAPITAL, LLC, *et al.*

Appellant

v.

WFG NATIONAL TITLE INSURANCE COMPANY, LLC

Appellee

On Appeal from the Superior Court for the District of Columbia

(The Honorable Judge William M. Jackson)

APELLANT'S REPLY BRIEF

February 16, 2022

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[1] Motion for Admission *pro hac vice* is pending.

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SUMMARY OF ARGUMENT

Defendant raises several arguments in its Brief ("Def. Brief"). Plaintiffs will address those arguments as they arise.

Defendant first argues that the lower court was correct in granting Defendant's motion for judgment on the pleadings because the plain terms of the Policy show that no coverage is owed. The cases cited in support of Defendant's claims are materially dissimilar to the instant case and are therefore inapplicable to this Court's analysis.

Defendant then argues that Plaintiffs were required to prove entitlement to coverage at the pleading stage. Defendant cites to a case in support of its claims that discusses an insured needing to prove entitlement to coverage at trial. Given that the case relied upon discusses a burden of proof at trial as opposed to at the pleading stage, such case is inapplicable to this Court's analysis.

Defendant then argues that Plaintiffs did not obtain Defendant's written consent prior to settling the matter with the bankruptcy trustee. As will be discussed below, Defendant's arguments are focused on whether consent was actually obtained, which is a factual question reserved for the fact-finder. Accordingly, it would be inappropriate for this Court to resolve that question at this stage in litigation.

Defendant then argues that Plaintiffs have changed their position from the lower proceedings regarding obtaining consent before settlement such that judicial estoppel should be employed. The cases cited by Defendant's are materially dissimilar to the instant case and are therefore inapplicable to this Court's analysis. Further, as will be discussed below, Plaintiffs maintain that their position regarding consent before settlement has not changed throughout this litigation.

Defendant then argues that Plaintiffs cannot claim that they suffered a loss or damage from the title defects because they eventually made a profit on the sale. As will be discussed in more detail, the generally prevailing meanings of loss and damage do not comport with Defendant's argued definition of loss and damage. Further, if loss and damage are found to be ambiguous, any ambiguity must be resolved in favor of Plaintiffs.

Finally, Defendant presents several arguments regarding whether or not the transfer of the Property in question during the bankruptcy proceedings was a fraudulent transfer. Through its arguments, Defendant attempts to prove to this Court that the transfer was fraudulent. As will be discussed below, as this Court is reviewing the granting of a motion for judgment on the pleadings, such arguments are inappropriate at this time.

ARGUMENT

A. TERMS OF INSURANCE CONTRACT

Defendant argues that "courts routinely grant judgment if, on the face of the policy, it is clear that no coverage is owed." Def. Brief at 12. It premises this argument on two principles of contract law. The first is that "[t]he terms of the policy, so long as they are clear and unambiguous, express the contract between the parties and will be enforced by the courts unless they violate a statute or public policy." *Id.* at 11 (quoting *Robinson v. Aetna Life Ins. Co.*, 288 A.2d 236, 238 (D.C. 1972)). The second is that an "insurer may validly limit the scope of its liability by a policy provision and [courts] may not presume that any such limitation was idly inserted into the policy." *Id.* at 12 (quoting *Robinson*, 288 A.2d at 238).

Defendant's argument suggests that it is clear that no coverage is owed under the Policy and, therefore, the lower court did not err in granting Defendant's motion for judgment on the pleadings. *See* Def. Brief at 12. In support of this argument, Defendant cites to *GCDC LLC v. Sentinel Ins. Co., Ltd.* and *Washington Exec. Servs., Inc. v. Hartford Cas. Ins. Co. Id.* at 12 (citing *GCDC LLC v. Sentinel Ins. Co., Ltd.*, 2021 U.S. Dist. LEXIS 185031 (D.D.C. 2021) and *Washington Exec. Servs., Inc. v. Hartford Cas. Ins. Co.*, 2021 U.S. Dist. LEXIS 185033 (D.D.C. 2021)). Both *GCDC* and *Washington Exec.* are materially dissimilar from the instant case.

Both cases involved the plaintiffs seeking insurance coverage for business closures related to the Covid-19 pandemic. *See GCDC*, 2021 U.S. Dist. LEXIS 185031; *Washington Exec.*, 2021 U.S. Dist. LEXIS 185033. Each insurance policy contained a virus exclusion that stated that the insurance company would not pay for any loss or damage caused by the "presence, growth, proliferation, spread, or any activity of fungi, wet rot, dry rot, bacteria, or virus." *See id.* In each case, the plaintiff's allegations explicitly fit within the virus exclusion. *See id.* For example, in *GCDC*, the plaintiff's complaint specifically identified Covid-19 as a "virus" and admitted that the District orders closing businesses were intended to slow the "spread." *GCDC*, 2021 U.S. Dist. LEXIS 185031 at 5. Similarly, in *Washington Exec.*, the plaintiff's complaint also identified Covid-19 as a "virus" and admitted that District orders were put in place to "slow the spread." *Washington Exec.*, 2021 U.S. Dist. LEXIS 185033 at 8. Given the wording of their complaints, the plaintiffs alleged that their situations fit directly into the virus exclusions. Accordingly, the courts were right to grant the defendants' motions to dismiss for failure to state a claim.

The allegations in the instant case are not comparable to the allegations in *GCDC* and *Washington Exec*. If the instant case were to be similar to *GCDC* and *Washington Exec*., Plaintiffs would have to have specifically alleged that they did not seek or obtain Defendant's written consent prior to settling the issue with the

bankruptcy court, specifically alleged that they suffered no loss or damage, and/or specifically alleged that the 5037 Meads St. transfer was a fraudulent transfer. Plaintiffs did no such thing. Accordingly, Defendant's reliance on *GCDC* and *Washington Execs.* is misplaced and is not relevant to the determination of whether or not the lower court properly granted Defendant's motion for judgment on the pleadings.

B. PROOF OF COVERAGE

In a footnote, Defendant appears to argue that Plaintiffs have a burden to "prove entitlement to coverage in the first place." Def. Brief at 13, n.6 (citing *Grp. Hospitalization, Inc. v. Foley*, 255 A.2d 499, 501 (D.C. 1969)). *Grp. Hospitalization* is also materially dissimilar from the instant case. *Grp. Hospitalization* involved a case that was on appeal after a trial in which the insured party prevailed. *See Grp. Hospitalization*, 255 A.2d 499. During the trial, the lower court judge discussed a burden being on the insurer to prove that a certain claim is not covered under the contract. *See id.* at 501. The appellate court reversed that ruling, holding that an insured has the "ultimate burden" to prove that their claim is covered. *Id.*

It is important to recognize that the *Grp. Hospitalization* Court held that this burden falls on the insured *at trial*. It is reasonable to expect a burden of proof *in a trial* to fall on the plaintiff. However, in the instant case, this Court is reviewing the lower court's decision to grant Defendant's motion for judgment on the pleadings.

For this determination, the only burden Plaintiffs have is to meet the standard required to overcome either a Rule 12(b)(6) motion to dismiss or a Rule 56 motion for summary judgment, depending on the standard being applied. *See* Init. Brief at 6-12 (discussing the standards for each). As Plaintiffs did meet such standards, the lower court's granting of Defendant's motion for judgment on the pleadings was improper.

C. CONSENT BEFORE SETTLEMENT

Defendant then argues that the lower court was correct in granting their motion for judgment on the pleadings with respect to the $42,000 settlement because it claims that Plaintiffs did not obtain Defendant's consent prior to settling with the bankruptcy court. Def. Brief at 14. It remains Plaintiffs' position that determining whether or not an event occurred that would trigger coverage under the policy is a factual determination. In fact, Defendant offers support for Plaintiffs' position by describing the consent required as a "condition precedent." *Id.* A condition precedent, as Defendant notes, "may be defined as an event, not certain to occur, which must occur, unless its non-occurrence is excused, before performance under a contract becomes due." *Id.* (quoting *Washington Props., Inc. v. Chin, Inc.*, 760 A.2d 546, 549 (D.C. 2000)). It is important to note that *Washington Props.* involved a dispute over whether or not the contract terms *created* a condition precedent, not

whether a specific condition precedent had been met. *See Washington Props.*, 760 A.2d at 549.

In the instant case, nothing in the pleadings has indicated that there is a dispute over whether or not the terms of the policy created a condition precedent. However, there has been a dispute over whether or not the specific condition precedent had been met. Defendant asked the lower court and now asks this Court to step into the shoes of the fact-finder and answer the question: did Plaintiffs actually obtain written consent from Defendant prior to settlement? It is not appropriate for any court to answer that question at this stage of the proceedings. The only questions that would be appropriate for this Court to answer (depending on the standard employed for a motion for judgment on the pleadings) are either: 1) do the well-pleaded allegations in Plaintiffs' complaint, when taken as true, state a claim for relief?; or 2) when viewed in the light most favorable to Plaintiffs, is there a genuine dispute over whether or not Plaintiffs obtained Defendant's written consent prior to settlement? *See* Init. Brief at 6-12.

Defendant also claims that Plaintiffs "admitted they sought [Defendant's] consent after they agreed to pay the $42,000." Def. Brief at 15. Defendant quotes a portion of Plaintiffs' opposition in which Plaintiffs state that "after Santorini's counsel requested Defendant's payment under the Policy, Defendant denied the request on a wholly separate basis, asserting that there was no compensable loss.

Indeed, Santorini's settlement was never mentioned, raised as being problematic, or cited as the basis for denial." Def. Brief at 15 (citing App. at 98). Plaintiffs are unclear as to how that statement could be considered an admission that Plaintiffs did not seek written consent. When viewed in the context of the rest of the paragraph, it is clear that Plaintiffs' argument centered around Defendant denying coverage on a basis other than lack of written consent before settlement. For this Court's clarity, the entire argument, in proper context, is:

> "The exhibit includes a series of communications between Santorini's counsel and Defendant's agent and Claims Officer, Bill Sempertegui. These communications highlight that Defendant was not only aware of Plaintiffs' negotiations with the bankruptcy trustee, but kept apprised of the developments in those settlement discussions, both through email and discussions by phone. Further still, after Santorini's counsel requested Defendant's payment under the Policy, Defendant denied the request on a wholly separate basis, asserting there was no compensable loss. Indeed, Santorini's settlement was never mentioned, raised as being problematic, or cited as the basis for denial. For Defendant to contend, now, that Plaintiffs' settling the matter constitutes a legitimate basis for denying Santorini's claim when it was fully apprised of the settlement negotiations, and, despite multiple opportunities, failed in any instance to object to that settlement, is wholly disingenuous. Defendant's behavior in this regard – based on the limited factual information at hand – was, at minimum, a tacit endorsement of the settlement negotiations very likely rising to the level of waiver, if not ultimately manifesting in actual consent."

App. at 97-98. Nothing in the foregoing paragraph constitutes an admission by Plaintiffs as to the issue of written consent.

Defendant argues that Plaintiffs are attempting "to manufacture a dispute of fact where none exists," and claim that the provided email communications "conclusively disprove [the] argument" that Plaintiffs obtained Defendant's written consent. Def. Brief at 15-16. Once again, Defendant asks this Court to step into the shoes of the fact-finder. At present, what is at issue is whether there exists a genuine dispute as to a material fact.[2] As discussed in Plaintiffs' initial brief, whether or not prior written consent was obtained is a material fact, i.e., a fact that might affect the outcome of the suit under governing law. *See* Init. Brief at 10 (citing *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986)). Further, the dispute about this material fact is genuine, i.e., the evidence is such that a reasonable jury could return a verdict for the non-moving party. *Id.* at 11 (citing *Anderson*, 477 U.S. at 248). Plaintiffs' position remains that there is a genuine dispute as to a material fact surrounding the issue of obtaining prior written consent, and, as such, granting Defendant's motion for judgment on the pleadings was inappropriate.

D. JUDICIAL ESTOPPEL

Defendant argues that Plaintiffs are changing their position regarding whether or not written consent was obtained prior to settlement. Def. Brief at 14-15. This is an improper characterization of the previous filings.

[2] This is, of course, dependent on this Court employing the standard most similar to that of a motion for summary judgment. Should this Court employ the standard most similar to that of a motion to dismiss, only the allegations in the complaint should be considered and the email communications should be disregarded.

In support of its argument, Defendant quotes the order of the lower court granting Defendant's motion for judgment on the pleadings which states that Plaintiffs "ma[de] no argument that [they] sought or obtained the [D]efendant's written consent." Def. Brief at 14-15 (citing App. at 122). With all due respect to the lower court, this is inaccurate. In their opposition to Defendant's motion for judgment on the pleadings, Plaintiffs argued that the emails circulated between Defendant and Plaintiffs were "at minimum, a tacit endorsement of the settlement negotiations very likely rising to the level of waiver, if not ultimately manifesting in actual consent." App. at 98. Accordingly, Plaintiffs did argue that they obtained Defendant's consent.

Despite that, Defendant argues that "under well-established principles of judicial estoppel, [Plaintiffs] should not be permitted to contradict their position 'according to the vicissitudes of self[-]interest.'" Def. Brief at 17 (citing *Porter Novelli, Inc. v. Bender*, 817 A.2d 185, 188 (D.C. 2003); *Brown v. M St. Five, LLC*, 56 A.3d 765, 780 (D.C. 2012)). As discussed above, Plaintiffs have not contradicted their position. Further, Defendant's reliance on *Porter Novelli* and *M St. Five* is misplaced.

Porter Novelli involved a dispute between a landlord and a subtenant regarding the subtenant holding over. *See Porter Novelli*, 817 A.2d 185. The question of judicial estoppel rose because the subtenant had initially argued that a

holdover agreement, authorizing the payment of triple rent, controlled in order to benefit from a stay of eviction. *Id.* at 187-88. Then, on appeal, the subtenant argued that the original lease, only authorizing the payment of double rent, controlled. *Id.* The Court found that the "equities reflected in the foregoing statement of facts and proceedings...estop subtenant from relying on the lease terms that subtenant *expressly rejected* in obtaining this court's aid, at the price of triple rent, in holding over until May 2000 rather than yielding immediate possession...." *Id.* at 188 (emphasis added). Accordingly, in *Porter Novelli*, the subtenant argued for a completely opposite position on appeal as it had in the earlier proceedings.

Similarly, the *M St. Five* case involved a dispute in which a party, M St. Five, first argued that a certain agreement was invalid, and then, at a later date, argued that certain provisions of that same agreement still applied to allow them to recover attorney's fees. *See M St. Five*, 56 A.3d 765. The Court held that "M St. Five's claim that the Second Extension Agreement is void ab initio *directly contradicts* its subsequent claim that it is entitled to attorney's fees pursuant to the Second Extension Agreement." *Id.* at 780. As in *Porter Novelli*, M St. Five argued for a completely opposite position than it had taken earlier.

As described above, Plaintiffs' position regarding consent has remained consistent throughout the proceedings and, although worded differently, has not resulted in Plaintiffs arguing two opposite or directly contradictory positions.

Accordingly, Defendant's reliance on *Porter Novelli* and *M St. Five* is misplaced and judicial estoppel is inappropriate.

E. EXCLUSION 3(C)

Defendant argues that "no coverage is owed because of Exclusion 3(c)," which would allow Defendant to deny coverage for claims "resulting in no loss or damage...." Def. Brief at 19. Defendant claims that the fact that the sale was profitable precludes any possibility of suffering a loss. *See id.* at 19-21.

Plaintiffs still contend that the terms of the contract are not in dispute. What is in dispute with respect to the arguments surrounding Exclusion 3(c) is *whether or not* Plaintiffs suffered a loss. Resolution of this dispute depends on factual determinations, such as the amount of the sale, the amount of the mortgage, and the amount of expenses incurred as a result of the title issue. These determinations would be made by a jury at a trial based on the evidence presented therein. Plaintiffs contend that they did suffer a loss due to the defect in title. Defendant contends that Plaintiffs did not. Accordingly, regardless of the standard applied (that of a motion to dismiss or that of a motion for summary judgment), such a dispute is not to be resolved by this Court. *See Fraser v. Gottfried*, 636 A.2d 430, 432 (D.C. 1994) ("The purpose of a 12(b)(6) motion is to test the formal sufficiency of the claim for relief; it is not a procedure for resolving a contest about the facts or merits of the case."); *see also Blakeney v. United Ins. Co.*, 87 A.2d 532, 534 (D.C. 1952) ("[T]he function

of a trial judge on a motion for summary judgment is limited solely to determining *if* there is a genuine issue of material fact; he may not decide facts.") (emphasis in original).

However, should this Court find that there is a dispute over the terms of the contract, Defendant's definition of the terms "loss" and "damage" should not be applied. "It is a canon of contract interpretation that 'where language has a generally prevailing meaning, it is interpreted in accordance with that meaning.'" *1230-1250 Twenty-Third St. Condo. Unit Owners Ass'n v. Bolandz*, 978 A.2d 1188, 1191 (D.C. 2009) (citing Restatement (Second) of Contracts § 202(3)(a) (Am. L. Inst. 1981)). Further, the Court of Appeals has explained that "[i]t is the insurer's duty to spell out in plainest terms – terms understandable to any man on the street – any exclusionary or delimiting policy provisions." *Holt v. George Washington Life Ins. Co.*, 123 A.2d 965, 968 (D.C. 1999). "Failing such unambiguous language, doubt should be resolved in favor of the insured." *Id.*

The Policy includes a section entitled "Definition of Terms," in which Defendant specifically defines certain terms such as "insured," "knowledge," and "mortgage." App. at 25-26. However, the Policy does not contain any definition of the terms "loss" or "damage." Accordingly, these terms should be interpreted in accordance with their generally prevailing meaning. *See Bolandz*, 978 A.2d at 1191.

The word "loss," specifically in the context of insurance, has a generally prevailing meaning, i.e., "an increase in liabilities" and "pecuniary injury resulting from the occurrence of the contingency insured against." *Loss – Insurance*, BLACK'S LAW DICTIONARY (6th ed. 1990). Similarly, the word "damage," specifically in the context of pecuniary harm, has a generally prevailing meaning, i.e., "such as can be estimated in and compensated by money; not merely the loss of money or salable property or rights, but all such loss, deprivation, or injury as can be made the subject of calculation and recompense in money." *Id.*, *Damages – Pecuniary Damages*. Plaintiffs are unaware of (and Defendant does not point to) a generally prevailing meaning of "loss" or "damage" that supports Defendant's and the lower court's theory that making any profit whatsoever completely precludes a party from suffering a loss or damages. Accordingly, the plain meanings of "loss" and "damage" do not preclude Plaintiffs from alleging that they suffered a loss or damages in this case.

If this Court finds that the terms "loss" or "damage" do not have generally prevailing meanings and are therefore ambiguous, then any ambiguity should be resolved in favor of the insured. *See Holt*, 123 A.2d at 968. As described above, there is a definition of the terms "loss" and "damage" that, when applied, demonstrates that Plaintiffs suffered a loss or damage. Therefore, such a definition should be applied when resolving any ambiguity. Accordingly, there is not a situation in which

Defendant's definition of "loss" or "damage" can be applied and allow for the granting of their Motion for Judgment on the Pleadings.[3]

F. EXCLUSION 6

Defendant argues that Exclusion 6 bars coverage. Def. Brief at 21. Exclusion 6 bars coverage when the transaction creating the title defect is a "fraudulent conveyance or fraudulent transfer...." *See* App. at 24.

In support of its argument, Defendant discusses that the bankruptcy trustee alleged that Mr. Strickland failed to disclose his interest in 5037 Meads Street, LLC, to "hinder, delay, or defraud the chapter 7 trustee...." App. at 60. Defendant does not point to any District of Columbia rule, statute, or case law supporting its position that a bankruptcy trustee's allegations of the reasons behind a transfer in a separate case creates a binding factual determination in this case. Neither does Defendant point to any District of Columbia rule, statute, or case law supporting its position that a judgment in a bankruptcy case creates a binding factual determination in this case.

Defendants also take issue with Plaintiffs' claim in their Initial Brief that Mr. Strickland's transfer was not a fraudulent transfer and argument that a reasonable

[3] In fact, Defendant's definition would lead to absurd results. For instance, imagine a scenario in which a truck is carrying goods that will, upon delivery, result in the company making a profit of $100,000. On the way to deliver the goods, the truck (through no fault of its driver) is hit by another car, causing $99,999 in damage to the goods, reducing the company's *profits to* $1. Under Defendant's definition, the company did not suffer a loss.

jury could find that whatever transaction created the lien on the Property was not a fraudulent conveyance or transfer. *See* Def. Brief at 22 (citing Init. Brief at 11-12.). Defendants claim that "[s]uch 'vague and conclusory assertion[s]' do not pass muster." *Id.* (citing *Martin v. Santorini Cap., LLC*, 236 A.3d 386, 400 (D.C. 2020)). Plaintiffs, in asserting that Mr. Strickland's transfer was not a fraudulent transfer, were demonstrating to this Court that there is a genuine issue of material fact as to whether or not the transfer was fraudulent and would bar coverage.

Defendant cites *Martin*, a case in which this Court held that "[a] vague and conclusory assertion of what future evidence may prove does not meet the pleading standards *required to survive a Rule 12(b)(6) motion*." *Martin*, 236 A.3d at 400 (emphasis added). *Martin* discusses vague and conclusory assertions presented in a complaint, not allegedly vague and conclusory assertions presented in an appellate brief. Accordingly, Defendant's reliance on *Martin* in this context is misplaced.

Defendant then claims that Plaintiffs' prior arguments regarding the supposed fraudulent transfer fail. *See* Def. Brief at 22-23. Defendant discusses whether or not it is relevant that the determination in the bankruptcy court pertained to Mr. Strickland's personal bankruptcy as opposed to bankruptcy proceedings initiated by 5037 Meads St. *Id.* at 22. Defendant claims that the transfer "was not an arms' length transaction," and that "the conveyance lacked consideration...." *Id.* Defendant also discusses whether or not it is relevant that the bankruptcy trustee's allegations

resulted in a default judgment as opposed to a contested judgment. *See id.* at 23. Defendant claims that "[i]t is possible that Mr. Strickland opted not challenge the Complaint because he recognized the allegations were true," and that the "judgment obtained by the trustee plainly triggers Exclusion 6. *Id.* Defendants also discuss whether or not it matters that the alleged fraudulent transfer took place after bankruptcy proceedings began. *See id.* at 23-24.

A common theme throughout Defendant's claims in this section is that they are all designed to *prove* that this transfer was fraudulent. *See* Def. Brief at 22-24. As discussed several times throughout this litigation, the time for Defendant to prove whether or not a particular exclusion applies is at trial. As this appeal surrounds the lower court's denial of Defendant's motion for judgment on the pleadings, such arguments are inappropriate.

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that this Honorable Court reverse the lower court's ruling granting Defendant's motion for judgment on the pleadings and remand for further proceedings in accordance with this Court's decision.

Respectfully,

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CERTIFICATE OF SERVICE

I hereby certify that, on this 16th day of February, 2022, a copy of the foregoing Reply Brief was sent via email to:

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[5] Motion for Admission *pro hac vice* is pending.

District of Columbia
Court of Appeals

REDACTION CERTIFICATE DISCLOSURE FORM

Pursuant to Administrative Order No. M-274-21 (filed June 17, 2021), this certificate must be filed in conjunction with all briefs submitted in all cases designated with a "CV" docketing number to include Civil I, Collections, Contracts, General Civil, Landlord and Tenant, Liens, Malpractice, Merit Personnel, Other Civil, Property, Real Property, Torts and Vehicle Cases.

I certify that I have reviewed the guidelines outlined in Administrative Order No. M-274-21 and Super. Ct. Civ. R. 5.2, and removed the following information from my brief:

1. All information listed in Super. Ct. Civ. R. 5.2(a); including:

   - An individual's social-security number
   - Taxpayer-identification number
   - Driver's license or non-driver's' license identification card number
   - Birth date
   - The name of an individual known to be a minor
   - Financial account numbers, except that a party or nonparty making the filing may include the following:

     (1) the acronym "SS#" where the individual's social-security number would have been included;
     (2) the acronym "TID#" where the individual's taxpayer-identification number would have been included;
     (3) the acronym "DL#" or "NDL#" where the individual's driver's license or non-driver's license identification card number would have been included;
     (4) the year of the individual's birth;
     (5) the minor's initials; and
     (6) the last four digits of the financial-account number.

2. Any information revealing the identity of an individual receiving mental-health services.

3. Any information revealing the identity of an individual receiving or under evaluation for substance-use-disorder services.

4. Information about protection orders, restraining orders, and injunctions that "would be likely to publicly reveal the identity or location of the protected party," 18 U.S.C. § 2265(d)(3) (prohibiting public disclosure on the internet of such information); *see also* 18 U.S.C. § 2266(5) (defining "protection order" to include, among other things, civil and criminal orders for the purpose of preventing violent or threatening acts, harassment, sexual violence, contact, communication, or proximity) (both provisions attached).

5. Any names of victims of sexual offenses except the brief may use initials when referring to victims of sexual offenses.

6. Any other information required by law to be kept confidential or protected from public disclosure.

Roger C. Simmons
Signature

21-cv-735
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