

IN THE COURT OF APPEALS OF TENNESSEE
AT JACKSON
April 22, 2026 Session

FILED

09/01/2026

Clerk of the
Appellate Courts

SCHERRI NICOLE HENDERSON v. WILLIE HENDERSON, JR.

Appeal from the Circuit Court for Shelby County
No. CT-0716-22 Damita J. Dandridge, Judge

No. W2025-00499-COA-R3-CV

Because the trial court and parties failed to comply with the prior orders of this Court concerning the sealing of the record, the appeal is not ready for appellate review.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Circuit Court
Vacated and Remanded with Instructions

STEVEN W. MARONEY, J., delivered the opinion of the court, in which J. STEVEN STAFFORD, P.J., W.S., and JEFFREY USMAN, J., joined.

Stuart B. Breakstone and Morgan Stanford, Memphis, Tennessee, for the appellant, Willie Henderson, Jr.

Mitchell D. Moskovitz and Olivia S. Garber, Memphis, Tennessee, for the appellee, Scherri Nicole Henderson.

OPINION

I. Background

A recitation of the underlying facts is not necessary for purposes of this opinion. Relevant here are the two previous orders of this Court. In an August 19, 2025 order, we noted

that the record contains a “Consent Order Placing Matter Under Seal” entered by the trial court on June 18, 2024. However, the trial court clerk did not transmit the record to the Clerk of this Court under seal, nor have the

requirements for filing a record under seal outlined in Tennessee Court of Appeals Rule 15 been met.

In light of the foregoing, we remand this matter to the trial court to . . . determine whether the record should be filed under seal and take the proper steps to do so under our rules. The trial court clerk is directed to transmit a certified copy of the new final order to the Clerk of this Court within ten (10) days of the entry of the order. Also, to the extent the trial court determines that any of the documents or information in the record should be placed under seal, the trial court shall make the requisite findings and conclusions to justify sealing any specifically-identified documents or portions of documents or specifically-identified information, and shall enter an appropriate order within thirty (30) days of the entry of this order. The trial court clerk shall then prepare and transmit an amended record within fifteen (15) days of the entry of the trial court's order. **It is SO ORDERED.**¹

On October 1, 2025, the trial court entered an order placing the “entire record” under seal due to “the sensitive nature of the case affecting the wife’s profession after receiving 04/13/2026 a Doctorate Degree in Behavioral Health” and “[b]oth the Wife’s and Husband’s Attorneys signed a consent order placing the entire case under seal.” Thereafter, the appellate record was returned to the Clerk of this Court under seal.

On April 13, 2026, this Court entered a second remand order, wherein we acknowledged the trial court’s October 1, 2025 order but concluded

that the parties have not complied with this Court’s directives [as set out in the August 19, 2025 order, *supra*] and that the trial court’s [October 1, 2025] order wholly fails to comply with Rule 15. Tenn. Ct. App. R. 15(b)(ii) (“For a document to be filed under seal in the appellate court pursuant to subdivision (b), the trial court must have made an *individualized determination* that the particular document should be filed under seal. A document *will not be filed under seal in this court based solely on the stipulation of the parties* or on a party’s designation of the document as confidential pursuant to a protective order.” (emphasis added)).

In light of the foregoing, the Clerk of this Court shall return the record to the trial court. The parties are directed to, within thirty (30) days of the entry of this Order, comply with this Court’s August 19, 2025 Order by obtaining an order from the trial court that complies with Rule 15. The trial court clerk shall then prepare and transmit an amended record within fifteen (15) days of the entry of the trial court’s order. Failure to obtain an appropriate order from the trial court may result in some or all of the

¹ The June 18, 2024 “Consent Order Placing the Matter Under Seal” has also been placed under seal.

documents at issue being unsealed.

(Emphases in original).

Despite the trial court and parties' non-compliance with our August 19, 2025 order, we proceeded to hear oral arguments on April 22, 2026. The parties were then ordered to file supplemental briefs on a matter unrelated to the sealing of the record. The parties have now complied with this Court's supplemental briefing request, but, to date, have failed to comply with either the August 19, 2025, or April 13, 2026 orders mandating compliance with Tennessee Court of Appeals Rule 15, i.e., sealing of the record.

II. Standard of Review

We review the trial court's order to seal its records under an abuse of discretion standard. *In re NHC–Nashville Fire Litig.*, 293 S.W.3d 547, 560 (Tenn. Ct. App. 2008). A trial court abuses its discretion when it applies an incorrect legal standard or reaches a decision which is against logic or reasoning and which causes an injustice to the complaining party. *Doe ex rel. Doe v. Roman Catholic Diocese of Nashville*, 154 S.W.3d 22, 42 (Tenn. 2005) (citation omitted); *see also Gooding v. Gooding*, 477 S.W.3d 774, 779 (Tenn. Ct. App. 2015) (“When the courts refer to an abuse of discretion, they are simply saying that either the discretion reposed in the lower court judge was not exercised in conformity with applicable guidelines or the decision was plainly against the logic and effect of the facts before the court.”) (internal quotations omitted). Importantly, although we review a trial court's order to seal its records for an abuse of discretion, “[i]n light of the important rights involved, the [trial] court's decision [to seal its record] is not accorded' the deference that standard normally brings.” *Shane Grp., Inc v. Blue Cross Blue Shield of Michigan*, 825 F.3d 299, 306 (6th Cir. 2016) (quoting *In re Knoxville News-Sentinel Co., Inc.*, 723 F.2d 470, 476 (6th Cir. 1983)).

III. Analysis

As noted in our April 13, 2026 second remand order, failure to comply with this Court's August 19, 2025 Order by obtaining an order from the trial court that complies with Rule 15 “may result in some or all of the documents at issue being unsealed.” Now, in the absence of a compliant sealing order, we are placed in the position of either unsealing a record that may, in fact, need to be sealed, or giving the parties and the trial court yet another chance to comply with the mandates of Rule 15. We exercise our discretion and choose the second option. However, because we want to assume that the trial court and the parties are unfamiliar with the requirements of Rule 15 and not merely ignoring our mandates, we will use this opinion to clarify the requirements for sealing records and the extent of the findings required to do so.

A. Rule 15 Requirements

We begin with Tennessee Court of Appeals Rule 15, which provides, in relevant part, that:

(a). Applicability. All documents filed with the clerk of this court are public records unless they are protected from disclosure by a statute, rule, or court order. Tenn. S. Ct. R. 34. Except as provided in subdivisions (f) and (g), this order applies only to documents filed under seal or proposed to be filed under seal pursuant to a court order and not to documents sealed or made confidential by a statute or rule.

(b). Documents previously filed under seal in the trial court.

i. Documents filed in the trial court under seal pursuant to a specific order of the trial court shall be filed under seal in this court subject to the same restrictions as set forth in the trial court's order unless this court orders otherwise.

ii. For a document to be filed under seal in the appellate court pursuant to subdivision (b), *the trial court must have made an individualized determination that the particular document should be filed under seal. A document will not be filed under seal in this court based solely on the stipulation of the parties or on a party's designation of the document as confidential pursuant to a protective order.*

(Emphasis added).

Here, the trial court sealed the record, in part, based on the consent of the parties. Under Rule 15(b)(ii), such consent is insufficient to warrant sealing. This was the trial court's first error.

As set out in context above, Rule 15(b)(ii) requires the trial court to make an "individualized determination" that "the particular document" should be filed under seal. Here, the trial court did neither of these things. Rather, in its October 1, 2025 order, the trial court placed the "entire record" under seal without reference to any particular documents contained therein. This was its second error.

Furthermore, as the sole stated ground for sealing the entire record, the trial court noted "the sensitive nature of the case affecting the wife's profession" in the field of behavioral health. This is a divorce case, so the subject-matter is sensitive, but all divorces are sensitive matters that affect the parties thereto in various ways. *In re Estate of Thompson*, 636 S.W.3d 1, 24 (Tenn. Ct. App. 2021) ("Although the documents contain information that the parties understandably might prefer be kept confidential, this is true for most if not all litigation involving interfamily conflict and does not amount to an interest compelling enough to outweigh the strong presumption in favor of openness regarding the trial court's records."). Thus, the trial court's notation concerning the "sensitive nature of the case" is vague and insufficient to justify sealing the entire record. As to the trial court's

conclusion that the proceedings bear on wife's profession, the trial court failed to include any details or examples of how wife's profession may be affected by the mere fact of her divorce.

As recently noted by the Tennessee Supreme Court, "[t]he interest needed to seal judicial records has not been clearly defined in Tennessee." *State v. Johnson*, No. M2024-00959-SC-R10-CO, 2026 WL 1433940, at *5, --- S.W.3d --- (Tenn. May 21, 2026).² In *Johnson*, where the trial court sealed certain records without entering a written order, the Tennessee Supreme Court reversed, making the documents available to the public. *Id.* at *1. In doing so, the Court first "recognized that judicial proceedings are presumptively open," and noted that "the presumption of openness extends not only to court proceedings, but also to judicial records. *Id.* at *3 (citations omitted); see Tenn. Const. art. 1 § 17 ("[A]ll courts shall be open . . ."). Indeed, this Court has explained that:

"[T]he courts of this country recognize a general right to inspect and copy public records and documents, including judicial records and documents." *Nixon v. Warner Commc'ns, Inc.*, 435 U.S. 589, 597, 98 S.Ct. 1306, 1312, 55 L.Ed.2d 570 (1978). This public access doctrine is codified in the Tennessee Public Records Act. Tenn. Code Ann. §§ 10-7-101 to -702. The definition of "public records" that are subject to public access include the following court records: "the pleadings, documents, and other papers filed with the Clerk[s] of . . . all courts." *In re NHC*, 293 S.W.3d at 564 (citing *Ballard v. Herzke*, 924 S.W.2d 652, 661 (Tenn. 1996) (quoting Tenn. Code Ann. § 10-7-403)). Thus, all documents filed with the trial court clerk are public records and are open to the public unless they are protected from disclosure by a statute, rule, or court order. See Tenn. Sup. Ct. R. 34.

There is a "strong presumption in favor of openness" regarding court records. *Shane Grp., Inc.*, 825 F.3d at 305 (quoting *Brown & Williamson Tobacco Corp. v. FTC*, 710 F.2d 1165, 1179 (6th Cir. 1983)). Unlike discovery information merely exchanged between the parties, "[t]he public has a strong interest in obtaining the information contained in the court record." *Brown & Williamson Tobacco Corp.*, 710 F.2d at 1180. As this court has reasoned, "[t]he public's right to access provides public scrutiny over the court system which serves to (1) promote community respect for the rule of law, (2) provide a check on the activities of judges and litigants, and (3) foster more accurate fact finding." *In re NHC*, 293 S.W.3d at 561 (quoting *Ballard*, 924 S.W.2d at 661).

² Although we are cognizant of the *Johnson* Court's notation that, "the approach adopted herein is limited to the First Amendment right to access motions for disqualification or similar motions brought pursuant to Tennessee Supreme Court Rule 10B," *Johnson*, 2026 WL 1433940, at *5, we find its analysis helpful to our attempt to clarify the requirements for sealing records applicable in this case.

Doe by Doe v. Brentwood Academy, Inc., 578 S.W.3d 50, at 53-54 (Tenn. Ct. App. 2018).

However, as the *Johnson* Court noted

[t]he presumption of openness is qualified . . . and not absolute. “Every court has supervisory power over its own records and files” *Nixon*, 435 U.S. at 598, 98 S.Ct. 1306 [Tenn. 1978]. “Courts have inherent power to seal their records when privacy interests outweigh the public’s right to know.” [*Knoxville News-Sentinel v.*] *Huskey*, 982 S.W.2d [359,] at 362 n.1 [(Tenn. Crim. App. 1998), *perm. app. denied* (Tenn. Sept. 28, 1998)] (citing *In re Knoxville News-Sentinel Co.*, 723 F.2d [at 474]).

Johnson, 2026 WL 1433940, at *4.

As to the requirements for sealing a public record, this Court has noted that:

Tennessee case law reflects that the applicable legal standard for shielding documents from public view may vary from case to case depending upon the type of documents and information sought to be kept confidential. *See, e.g., Bortorff[v. Bortorff]*, [No. M2019-00676-COA-R3-CV,] 2020 WL 2764414, at *3 [(Tenn. Ct. App. May 27, 2020)] (noting that Tennessee courts have developed different modes of analysis for determining whether a trial court may order different categories of documents sealed); *Brentwood Acad.*, 578 S.W.3d at 56 (considering whether plaintiff demonstrated a “compelling reason” for request to seal portions of court order and transcript); *In re NHC*, 293 S.W.3d at 571 (“In the context of a protective order on unfiled discovery, the good cause standard generally should be considered to be satisfied as long as the parties can articulate a legitimate need for privacy or confidentiality.”); *Ballard*, 924 S.W.2d at 658 (addressing raw discovery responses filed with a court and holding that “[t]o establish ‘good cause’ under [Rule 26.03], the moving party must show that disclosure will result in a clearly defined injury to the party seeking closure”).

Estate of Thompson, 636 S.W.3d at 13. The *Estate of Thompson* Court noted that *Ballard* and other cases cited above deal exclusively with documents “meant to facilitate discovery” and were decided within the confines of Tennessee Rule of Civil Procedure 26.03 (addressing protective orders). However, as is the case in the instant appeal, in *Estate of Thompson*, the sealed documents were comprised of pleadings, court orders, transcripts, and exhibits.³ Given the nature of the documents sealed in this case, we, like the *Estate of*

³ As discussed further below, “When presented with an issue regarding sealing, the reviewing court should first determine the law that protects the right of access and the type of document sought. Both dictate the standard to be considered and the interest required to seal.” *Johnson*, 2026 WL 1433940, at *4 (citing

Thompson Court, find persuasive authority in three of our previous opinions: *Kocher v. Bearden*, 546 S.W.3d 78 (Tenn. Ct. App. 2017), *perm. app. denied* (Tenn. Oct. 6, 2017) (“*Kocher I*”); *Kocher v. Bearden*, No. W2017-02519-COA-R3-CV, 2018 WL 6423030 (Tenn. Ct. App. Dec. 5, 2018) (“*Kocher II*”), and *Bottorff*, 2020 WL 2764414.

The *Estate of Thompson* Court succinctly outlined the facts giving rise to the *Kocher I* appeal as follows:

The Kocher cases arose out of a personal injury action in which a minor child was struck by a vehicle and injured while riding his bike to school. [*Kocher I*,] 546 S.W.3d at 80. The original parties involved were the child’s parents (the Kochers) and the driver of the vehicle and his wife (the Beardens). *Id.* These parties reached a settlement regarding the accident without conducting discovery and sought approval of the settlement from the Shelby County Circuit Court. *Id.* On the same day the joint petition for approval of minor settlement was filed, the trial court entered an agreed order sealing the court’s file and barring public access to any hearings. *Id.* This order provided that the court was sealing its record due to “the sensitive nature of the evidence” and the “privacy interests of the instant minor and his family.” *Id.* Shortly thereafter, the Kochers filed a separate lawsuit against the company that operated the child’s school bus (“Durham”), alleging that Durham was responsible for the child’s injuries. *Id.* at 81.

Durham removed the lawsuit to federal court. *Id.* During discovery, Durham experienced difficulty obtaining the documents regarding the case between the Kochers and the Beardens due to the trial court’s sealing order. *Id.* Durham filed a motion to intervene in the circuit court action in order to gain access to sealed documents that were relevant to the federal action. *Id.* at 81-82. Both the Kochers and the Beardens opposed Durham’s efforts. *Id.* at 82. After a hearing, the circuit court found that Durham had not established a common question of law or fact necessary for permissive intervention under Tenn. R. Civ. P. 24.02 and also refused to modify or rescind the court’s sealing order. *Id.* Durham appealed to this Court. *Id.*

In re ESML Holdings Inc., 135 F.4th 80, 94 (3d Cir. 2025); *Doe v. Pub. Citizen*, 749 F.3d 246, 266 (4th Cir. 2014)). For example, if, on remand, the trial court determines that any of the documents that the parties seek to seal are related to discovery, the trial court should apply the *Ballard* Rule 26.03, “good cause” standard in analyzing whether those documents should be sealed. However, where the documents are presumptively open, public court records, the trial court should apply the standard derived from the *Kocher*, *Bottorff*, and *Brentwood Acad.* cases, which requires a compelling interest to warrant sealing the documents, and, if such compelling interest is found, requires the trial court to narrowly tailor the sealing order to encompass only those documents (or parts thereof) that relate to and protect that compelling interest.

Estate of Thompson, 636 S.W.3d at 15.

As relevant to the instant appeal, the *Kocher I* Court “concluded that the reasons for sealing the documents at issue had to be ‘compelling’ in light of the presumptive right of access to the court’s judicial records.” *Id.* (citing *Kocher I* at 86). The *Kocher I* Court distinguished the filed documents at issue in that case from documents exchanged or filed strictly for purposes of discovery and sealed under Rule 26.03 and explained that a “trial court’s reason for sealing its record had to be ‘compelling’ rather than for mere ‘good cause.’” *Id.* (citing *Kocher I* at 85, n. 9 (distinguishing *Kocher I* from *Ballard*, which involved sealing of discovery documents under Tenn. R. Civ. P. 26.03)). The *Kocher I* Court remanded the case to the trial court based on its conclusion that the trial court’s failure to articulate the reasons for sealing its record left this Court unable either to discern whether a compelling reason for the seal had been established, or to “determine precisely how or if revelation of the information would prejudice” the proponents of the seal. *Kocher I* at 87. Accordingly, on remand, the *Kocher I* Court directed the trial court that the reasons for the seal must “be articulated along with findings specific enough that a reviewing court [could] determine whether the closure was properly entered.” *Id.* (citing *In re NHC*, 293 S.W.3d at 560).

As explained by the *Estate of Thompson* Court,

On remand [from *Kocher I*] the parties continued to dispute the unsealing of the trial court’s record. *Kocher II*, 2018 WL 6423030, at *8. The Kochers in particular remained adamant that Durham not gain access to the documents, asserting that the seal protected the minor child. *Id.* Ultimately, the trial court agreed with the Kochers and entered an order providing that “the contents of [the] file create a compelling interest in maintaining the seal as to the private and confidential information contained therein.” *Id.* The basis of the trial court’s decision was that the information in the sealed documents pertained to the Kochers’ minor child. *Id.* Durham again appealed to this Court. *Id.*

Estate of Thompson, 636 S.W.3d at 16.

In *Kocher II*, this Court reversed the trial court’s decision to deny Durham access to the sealed documents. Noting that “judicial records are presumptively open, [and] that the public has a qualified right to examine documents generated in judicial proceedings,” we concluded that a “compelling interest” was necessary for the trial court to keep the judicial records under seal and that the closure must be narrowly tailored to serve that compelling interest. *Kocher II* at *10. Specifically, the *Kocher II* Court explained:

Any restriction on public access to judicial proceedings and documents “must be narrowly tailored to accommodate the competing interest without

unduly impeding the flow of information.” *Huskey*, 982 S.W.2d at 363.

“The presumption of openness may be overcome only by an overriding interest based on findings that closure is essential to preserve higher values and is narrowly tailored to serve that interest. The interest is to be articulated along with findings specific enough that a reviewing court can determine whether the closure order was properly entered.” *In re NHC* [], 293 S.W.3d at 560 (quoting *State v. Drake*, 701 S.W.2d 604, 607-08 (Tenn. 1985)).

Kocher II, 2018 WL 6423030, at *10. As to what is meant by “compelling interest,” this Court has explained

that the “compelling interest” standard demands more than broad, vague allusions to general privacy interests or potential harm. *See, e.g., Bottorff*, 2020 WL 2764414, at *9-10 (trial court’s finding that sealing order would prevent “harm and embarrassment” was insufficient to seal trial transcripts and exhibits); *Brentwood Acad.*, 578 S.W.3d at 54-55 (discussing that medical information, the information at issue in that case, is “universally recognized as confidential”); *Paxton [v. City of Dallas]*, 509 S.W.3d [247,] at 258 [(Tex. 2017)] (“A need is ‘compelling’ if it is so great that irreparable harm or injustice would result if it is not met; a reason may be ‘compelling’ if time is of the essence; . . . and the public interest in maintaining confidentiality of information may be ‘compelling’ if the interest advanced by the promise of confidentiality would be eviscerated by compelled disclosure.”) (some quotations omitted) (footnotes omitted). Further, unlike the sealed documents in *Brentwood Academy*, which were unrelated to the merits of the case and involved redactions of the sensitive information, the sealed records at issue here are scores of documents central to the case. *See id.*, 578 S.W.3d at 55 (“[I]f the information is both confidential and was not relied on by the court to make a judicial decision, then the public’s right to such information is greatly diminished.”).

Estate of Thompson, 636 S.W.3d at 23. Indeed, the Tennessee Supreme Court has cautioned that

“[b]road allegations of harm, unsubstantiated by specific examples or articulated reasoning” will not satisfy [the compelling interest] standard. *Ballard*, 924 S.W.2d at 658 (quoting *Cipollone v. Liggett Grp., Inc.*, 785 F.2d 1108, 1122 (3d Cir. 1986)). “Mere conclusory allegations are insufficient.” *Id.*

In determining if the interest is “compelling,” courts must weigh the presumption of openness against the potential interest in need of protection. In *Ballard*, this Court adopted factors to evaluate the “good cause” standard

for protective orders under Rule 26. 924 S.W.2d at 658-60. While good cause is a different standard from compelling interest, the factors discussed in **Ballard** still provide the courts with useful guidance for “evaluat[ing] the competing considerations in light of the facts of each individual case.” *Id.* at 659 (citing Arthur R. Miller, *Confidentiality, Protective Orders, and Public Access to the Courts*, 105 Harv. L. Rev. 427, 492 (1991)). Some factors which may support the finding of a compelling interest and weigh in favor of sealing include if: “(1) the litigation involves private litigants; (2) the litigation concerns matters of private concern or of little legitimate public interest; and (3) disclosure would result in serious embarrassment or other specific harm.” *Id.* at 658-59 (first citing *Seattle Times [Co., v. Rhinehart]*, 467 U.S. [20,] at 34-36 [(1984)], 104 S.Ct. 2199; and then citing *Cipollone*, 785 F.2d at 1121). Some factors which do not support the finding of a compelling interest and weigh against sealing include if: “(1) the party benefitting from the [seal] is a public entity or official; (2) the information sought to be sealed relates to a matter of public concern; and (3) the information sought to be sealed is relevant to other litigation and sharing it would promote fairness and efficiency.” *Id.* at 658 (citing *Pansy v. Borough of Stroudsburg*, 23 F.3d 772, 787 (3d Cir. 1994)). No single factor is dispositive, and courts need not consider any specific factor in their analysis. *Id.* at 659. Critically, consulting the **Ballard** factors in this context does not change the required analysis wherein courts must identify and describe the compelling interest that outweighs the constitutional right. *Cf. In re Avandia Mktg., Sales Pracs. & Prods. Liab. Litig.*, 924 F.3d 662, 676 (3d Cir. 2019) (finding that trial court did not abuse its discretion or change the required standard by considering factors from a different test as guidance).

If a court identifies a compelling interest, any seal to protect that interest must be “narrowly tailored.” See **Drake**, 701 S.W.2d at 607 (quoting *Waller [v. Georgia]*, 467 U.S. [39,] at 45 [(1984)], 104 S.Ct. 2210 (quoting *Press-Enterprise Co. v. Superior Court*, 464 U.S. 501, 104 S.Ct. 819, 78 L.Ed.2d 629 (1984))).

Johnson, 2026 WL 1433940, at *5-6. As the **Johnson** Court summarized:

[T]o seal a motion for disqualification and its supporting documents, a court must make a finding that specifies and describes a compelling interest necessitating closure. See **Drake**, 701 S.W.2d at 607-08 (quoting *Waller*, 467 U.S. at 45, 104 S.Ct. 2210). Not only should the court find a compelling interest exists, but it must “articulate the specific facts upon which [it] has based a finding that closure is essential to preserve the . . . interest.” *Id.* at 608. The court must then provide instructions to the clerk that narrowly tailors any restriction to seal only what is necessary to protect the identified interest. *Id.* at 607-08. These findings and instructions must be set forth in a

written order. *See id.* That written order must enable an appellate court to determine whether the seal was properly ordered given the compelling interest identified, considering the reasonable alternatives to sealing that the court rejected. *See Kocher [I]*, 546 S.W.3d at 87 (quoting *In re NHC*, 293 S.W.3d at 560).

Id. at *6 (footnote omitted).

B. Application

From the foregoing discussion and relevant caselaw governing the sealing of records, we glean the following procedure. First, proper sealing of public records begins with a specific motion filed by the party seeking to close the record. As discussed above, under Rule 15(b)(ii), the parties' consent is insufficient to warrant sealing. Rather, the party's motion to seal must specify the exact documents (or specific parts thereof) to be sealed. Next, the motion must clearly state the reasons that necessitate sealing. "Broad allegations of harm, unsubstantiated by specific examples or articulated reasoning" will not satisfy this requirement, and "[m]ere conclusory allegations are insufficient." *Ballard*, 924 S.W.2d at 658 (citation omitted); *see also* Tenn. R. Civ. P. 7.02 ("An application to the court for an order shall be by motion which. . . shall state with particularity the grounds therefor, and shall set forth the relief or order sought."). Thus, motions that are not specific and merely ask the trial court to seal the entire record are hardly ever sufficient.

Once the trial court receives a compliant motion, the applicable standard varies from case to case depending on the type of document and information sought to be kept confidential. *Estate of Thompson*, 636 S.W.3d at *13 (citing *Bortoff*, 2020 WL 2764414, at *6); *Johnson*, 2026 WL 1433440. Accordingly, the trial court must first determine the type and nature of the documents (or portions thereof) that it is considering for sealing. As the foregoing caselaw elucidates, such review may show that the documents should be sealed because they contain information that is universally recognized as confidential. *Brentwood Acad.*, 578 S.W.3d at 54-55 ("Because medical records are universally recognized as confidential and they are exempted from the definition of public records, medical records and the information contained therein do not lose their confidentiality merely because a party files another's records in a civil action or reads from them during a legal proceeding.").

Furthermore, the trial court must determine whether any of the documents for sealing are relevant to discovery matters. If discovery matters are involved, the applicable standard is good cause, not compelling interest. *In re NHC*, 293 S.W.3d at 573 ("In the context of . . . discovery, the good cause standard generally should be considered to be satisfied as long as the parties can articulate a legitimate need for privacy or confidentiality."); *Ballard*, 924 S.W.2d at 658 (addressing raw discovery responses filed with a court and holding that "[t]o establish 'good cause' under [Rule 26.03], the moving

party must show that disclosure will result in a clearly defined injury to the party seeking closure”).

However, in most cases, the trial court will be reviewing “public records,” including “the pleadings, documents, and other papers filed with the Clerk[s] of . . . all courts.” *In re NHC*, 293 S.W.3d at 564 (citing *Ballard*, 924 S.W.2d at 661). In doing so, the trial court must consider whether the documents are central to the case. *Brentwood Academy*, 578 S.W.3d at 55 (“[I]f the information is both confidential and was not relied on by the court to make a judicial decision, then the public’s right to such information is greatly diminished.”).

To seal documents that are not: (1) pertinent to discovery; (2) “universally recognized as confidential”; or (3) ancillary to the court’s judicial decision, the trial court must articulate a “compelling interest” that necessitates sealing documents that would otherwise be public. As the *Johnson* Court discussed, “[i]n determining if the interest is ‘compelling,’ courts must weigh the presumption of openness against the potential interest in need of protection.” *Johnson*, 2026 WL 1433940, at *6 (citations omitted). Some factors, which may support the finding of a compelling interest and weigh in favor of sealing, include if: “(1) the litigation involves private litigants; (2) the litigation concerns matters of private concern or of little legitimate public interest; and (3) disclosure would result in serious embarrassment or other specific harm.” *Id.* at *6 (citations omitted). Some factors which do not support the finding of a compelling interest and weigh against sealing include if: “(1) the party benefitting from the [seal] is a public entity or official; (2) the information sought to be sealed relates to a matter of public concern; and (3) the information sought to be sealed is relevant to other litigation and sharing it would promote fairness and efficiency.” *Id.* (citations omitted).

Although “[n]o single factor is dispositive [of the question of compelling interest], and courts need not consider any specific factor in their analysis,” *Johnson*, 2026 WL 1433940, at *6, “the ‘compelling interest’ standard demands more than broad, vague allusions to general privacy interests or potential harm.” *Estate of Thompson*, 636 S.W.3d at 23 (citing *Bottorff*, 2020 WL 2764414, at *9-10). Here, the trial court’s sole reason for sealing the entire record (other than the parties’ consent) was “the sensitive nature of the case affecting the wife’s profession after receiving 04/13/2026 a Doctorate Degree in Behavioral Health.” This reason is no more than a vague allusion to a general privacy interest. “Broad allegations of harm, unsubstantiated by specific examples or articulated reasoning” will not satisfy the compelling interest standard. *Ballard*, 924 S.W.2d at 658 (quoting *Cipollone*, 785 F.2d at 1122). “Mere conclusory allegations are insufficient” to justify the sealing of the record. *Id.*

In sum, in light of the trial court’s lack of findings to justify the decision to seal the

entire record, we deem it appropriate to vacate the trial court's October 1, 2025 order.⁴ On remand the trial court shall reconsider the issue of sealing in view of the principles discussed in this opinion. *See, e.g., Baugh v. United Parcel Service, Inc.*, No. M2012-00197-COA-R3-CV, 2012 WL 6697384, at *7 (Tenn. Ct. App. Dec. 2, 2012) (reversing the placement of settlement documents under seal where the trial court did not state any reason for sealing the documents because this Court had “no basis upon which to determine that the reason for sealing the records was compelling”). To that end, the trial court may order the parties to amend the motion to seal so as to comply with the specificity requirements outlined above. However, if the trial court determines on remand that the record should remain sealed due to a compelling reason, that reason “is to be articulated along with findings specific enough that a reviewing court can determine whether the closure order was properly entered.” *In re NHC*, 293 S.W.3d at 560 (quotation omitted).

Finally, if the trial court orders the sealing of any portion of the record, its order “must be narrowly tailored to accommodate the competing interest without unduly impeding the flow of information.” *Kocher II*, 546 S.W.3d at 87 (citing *Huskey*, 982 S.W.2d at 363).

IV. Conclusion

For the foregoing reasons, the trial court's October 1, 2025 order is vacated, and the case is remanded for reconsideration of the question of sealing in view of the requirements discussed in this opinion. If, on remand, the trial court determines that any of the documents or information in the record should be placed under seal, the trial court shall

⁴ The *Johnson* Court noted that:

As in other situations when a trial court fails to articulate its reasoning on the record, the reviewing court may remand the case for additional findings. *See Am. Heritage Apartments, Inc. v. Hamilton Cnty. Water & Wastewater Treatment Auth.*, 494 S.W.3d 31, 51-52 (Tenn. 2016). This is because sealing involves “a finding of fact, which the trial court is in the best position to make.” *In re D.L.B.*, 118 S.W.3d 360, 367 (Tenn. 2003). However, if the record is sufficiently developed to permit meaningful review of the sealing issue on the merits, the court may also conduct a de novo review in the interest of judicial economy. *See Bean v. Bailey*, 280 S.W.3d 798, 805 (Tenn. 2009) (citing *Alley v. State*, 882 S.W.2d 810, 823 (Tenn. Crim. App. 1994)); *see also State v. Dagnan*, 641 S.W.3d 751, 758–59 (Tenn. 2022); *Lovlace v. Copley*, 418 S.W.3d 1, 36 (Tenn. 2013).

Johnson, 2026 WL 1433940, at *8.

Unfortunately, we are unable to conduct a de novo review of this case. Here, the parties have not clearly defined the documents for sealing (thus our notation above that, on remand, the trial court may allow the parties to refile the motion seeking sealing). Rather, the parties requested, and the trial court granted, the sealing of the entire record. It would not promote the interest of judicial economy for us to undertake review of every document in the record when the parties may (and should) narrow the documents proposed for sealing on remand.

make the requisite findings and conclusions to justify sealing any specifically-identified documents or portions of documents or specifically-identified information and shall enter an appropriate order within the time frame detailed below, which is also set forth in our order accompanying this opinion. Inasmuch as this is our third remand for the purpose of remedying this issue, and as the parties have already briefed and argued the actual merits of this case (not addressed in this opinion), this time frame shall be expedited.

Within ten (10) days of the entry of this Opinion and corresponding Order, the parties are directed to obtain an order from the trial court that complies with Rule 15. The trial court clerk shall then prepare and transmit an amended record within fifteen (15) days of the entry of the trial court's order. Upon receipt of the amended record, this appeal shall proceed on the merits. Failure to obtain an appropriate order from the trial court within the mandated timelines shall result in the record being unsealed and the appeal proceeding on the merits.

s/ Steven Maroney
STEVEN W. MARONEY, JUDGE