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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF CLALLAM

CLIFFORD OWENS,	)	
	)	
Plaintiff,	)	No. 94-2-01174-2
	)	
v.	)	MOTION BY INTERVENOR
	)	SEATTLE TIMES COMPANY
JAMES McGREAL, THE CORPORATION OF	)	TO UNSEAL COURT FILE
THE CATHOLIC ARCHBISHOP OF	)	
SEATTLE, a Washington non-profit corporation,	)	
d/b/a THE ARCHDIOCESE OF SEATTLE,	)	
RAYMOND HUNTHAUSEN,	)	
	)	
Defendants.	)	

**I. RELIEF REQUESTED<sup>1</sup>**

Seattle Times Company (“the Times”) respectfully requests that the Court unseal the file in this matter and make the judicial records immediately available to the Times and to the public.

Sexual abuse of children by adults is one of the most horrific violations of an individual’s safety and security that can occur in civilized society. Its devastating long-term effect on victims is well-documented. Nevertheless, this abuse often goes unchecked because it is hushed up and covered over. Abusers are free to repeatedly molest victims or find new

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<sup>1</sup> The Times is filing this Motion as soon as possible, after collecting necessary information for the Motion, in advance of the hearing date and reserves the right to supplement the briefing if it learns additional information before the hearing.

1 victims by relying on deception and secrecy. The Times urges the Court to end the secrecy in  
2 this case and release the sealed file to the public.

## 3 II. STATEMENT OF FACTS

4 Defendants limited public access to the facts of this civil action by obtaining an *ex parte*  
5 order in 1996 sealing the entire court file, including all court orders. According to the clerk's  
6 office, even this Court's Order to Seal is hidden from public scrutiny. As a result, the Times  
7 bases its limited factual recital on the court docket index and other public reports.

8 On December 23, 1994, plaintiff Clifford Owens filed a personal injury lawsuit against  
9 James McGreal, a Catholic priest, the Corporation of the Catholic Archbishop of Seattle ("the  
10 Archdiocese"), and then-Archbishop Raymond Hunthausen. (Dkt. No. 1) The parties  
11 conducted discovery, filed motions, and litigated the claims for nearly two years. During that  
12 time, it appears that the court file remained open to the public.

13 Defendants filed a motion on September 27, 1996, titled "Motion to Seal Court File."  
14 (Dkt. No. 191) The docket lists the Motion and Notice of Issue but no supporting exhibits or  
15 affidavits. On September 30, 1996, a "Stipulation of the Parties to Waive Oral Argument on  
16 MT to Seal File" was filed with the court, but the docket notes that the stipulation was "Not  
17 Signed." (Dkt. No. 193) The docket lists a "Motion Hearing" for October 4, 1996, but  
18 provides no details regarding the proceeding, the parties present, or the rulings of the Court.  
19 (Dkt. No. 194) Shortly after the hearing, on November 5, 1996, the clerk entered a "Stipulation  
20 for and Order of Dismissal." (Dkt. No. 196) The parties apparently settled the case.

21 On November 11, 1996, the Court signed an "Order Directing Court Clerk to Seal  
22 Entire Court File." (Dkt. No. 197) The court clerk sealed all items in the file, including the  
23 Court's Order and any explanation for the decision. After two years of litigation in the public  
24 eye, the entire record was suddenly removed from public view.

25 The 1994 lawsuit was not the first controversy involving McGreal. The Archdiocese  
26 acknowledged in 1988 that young boys had accused McGreal and another Clallam County  
27 priest, Joseph Conn, of sexual abuse. (*See* Declaration of Ray Rivera, ¶ 5, Exh. 3, newspaper

1 articles (“Rivera Decl.”)). Conn was convicted of indecent liberties in 1988 and faced a civil  
2 suit in 1994. *Id.* The Court partially sealed the file in Conn’s civil case as well.

3 Defendant McGreal recently came to public attention again in spring 2002. Sexual  
4 abuse allegations arose, and an alleged victim filed a civil lawsuit in King County Superior  
5 Court in late May that names McGreal and the Archdiocese as defendants. (*See id.*). The  
6 lawsuit accuses McGreal of sexually abusing altar boys while serving as a priest in Seattle  
7 during the 1970s. It also accuses the Archdiocese of negligence for retaining McGreal after it  
8 allegedly learned of his behavior. It is believed that one or more additional parties are  
9 contemplating a civil action against McGreal and the Archdiocese.

10 Meanwhile, allegations against other clergy have stirred debate nationwide. (*See Rivera*  
11 *Decl.* ¶ 2-3, Exhs. 1-2, newspaper articles) Public officials and the general public have begun  
12 debating how church leaders respond to sexual abuse allegations against the clergy. At stake  
13 are both the safety of children and the trust many segments of the public have placed in public  
14 agencies, the courts, and church leaders. Even President Bush has become involved by meeting  
15 with Vatican leaders to discuss how to combat the problem. (*See id.* at ¶ 2, Exh. 1). The  
16 Vatican also gathered U.S. archbishops in April for a summit on the controversy. (*See id.*) The  
17 public debate will continue next month, as bishops from across the country gather in Dallas on  
18 June 13 to develop a policy for dealing with clergy accused of sexual abuse.

19 In Washington, the Archdiocese’s policies, both today and in the past, have become the  
20 subject of intense debate. (*See id.* at ¶ 3, Exh. 2) Revelations about past abuse resulted in the  
21 recent removal of at least one Archdiocese priest. (*See id.*) Some in the public have questioned  
22 whether the Archdiocese’s current safeguards are effective. (*See id.*) They also have  
23 questioned whether the Archdiocese responded appropriately in years past and whether it  
24 conspired to conceal patterns of abuse. (*See id.*) Lawsuits and allegations against individual  
25 priests have provided the focal point for these inquiries. The media has covered and  
26 investigated the controversies, including the allegations against McGreal. (*See id.* at ¶ 5-8,  
27 Exh. 3)



1           **Second**, the substantive right of access of Article I, section 10, of the Washington State  
2 Constitution, the First Amendment of the U.S. Constitution, and the common law, as embodied  
3 in the standards of GR 15(c), create a presumption of openness that mandates unsealing.

4           **Third**, compelling circumstances, including the magnitude of the public controversy  
5 over how public agencies, the courts, and the Archdiocese are handling allegations against  
6 clergy and how past allegations have been dealt with, the position of public trust held by clergy,  
7 and new allegations against the priest involved in this matter require unsealing under GR 15(d).

8           **A.     The Order Sealing the Court File Violated the Procedural Requirements of**  
9           **GR 15(c)(2)(B)(ii).**

10           The Times urges the Court to unseal the case file because the original sealing order was  
11 defective under GR 15 and failed to adequately protect the public interest. GR 15(c)(2)(B)  
12 recognizes the importance of access to court records by setting strict limits on when a court  
13 may seal the file in a civil case. The rule states that

14                           after reasonable notice to the nonmoving party and a hearing, the  
15                           court may order the sealing of any files and records in the  
16                           proceeding (i) to further an order entered under CR 12(f) or a  
17                           protective order entered under CR 26(c); or (ii) ***under compelling***  
18                           ***circumstances where justice so requires.***

19           GR 15(c)(2)(B) (emphasis added). The moving party must make “an individualized showing”  
20 of why the court should seal each record. *In re Dependency of J.B.S.*, 122 Wn.2d 131, 140, 856  
21 P.2d 694 (1993). The court then must weigh the interest of the public against the interests of  
22 the party seeking closure by applying what are known as the *Ishikawa* guidelines. *Id.* at 138;  
23 *see also Seattle Times Co. v. Ishikawa*, 97 Wn.2d 30, 640 P.2d 716 (1982).

24           “Because courts are presumptively open,” the *Ishikawa* guidelines require the Court to  
25 complete a series of procedural steps before issuing an Order to seal. 97 Wn.2d at 38. First,  
26 the moving party bears the burden of showing “compelling circumstances” and that “justice so  
27 requires” closure. GR 15(c)(2)(B)(ii); *see also Ishikawa*, 97 Wn.2d at 38. In addition, the  
court must examine whether less restrictive measures are available. *Id.* at 38. Then, if the  
moving party has met its burden and no other alternatives are available, the court must weigh

1 the public interest during a hearing in open court. The court must articulate its analysis of the  
2 public interest “in its findings and conclusions, which should be as specific as possible rather  
3 than conclusory.” *Id.* at 38. Finally, the Order must narrowly serve the purpose that justifies  
4 closure, which in civil cases means

5 if the order involves sealing of records, it shall apply for a  
6 specific time period with a burden on the proponent to come  
before the court at a time specified to justify continued sealing.

7 *Id.* at 39.

8 Even with the limited facts available in this case, it is clear that the Order to Seal failed  
9 to comply with the *Ishikawa* and GR 15(c)(2)(B) procedural requirements. First, the docket  
10 shows no affidavits, exhibits or other evidence submitted by the defendants to carry their  
11 burden of proof. It is difficult to ascertain how the defendants could have specifically shown  
12 compelling circumstances for the individual items in the docket without providing any evidence  
13 to support the motion. Moreover, the sealing Order came after two years of public litigation, so  
14 the sudden need for complete, permanent secrecy logically required evidence of changed  
15 circumstances. *See Boston Herald, Inc. v. Sharpe*, 432 Mass. 593, 737 N.E.2d 859, 870-72  
16 (2000)<sup>2</sup> (court addressing common law right of access found no need to seal records when facts  
17 of case already had been public).

18 Second, *Ishikawa* required the Court to make its findings in open court, so the sealing  
19 Order itself should have remained accessible to the public. By sealing the Order, the Court has  
20 foreclosed the public from understanding how the Court analyzed and weighed the proper  
21 factors, including the public interest. Connecticut’s highest court lifted a sealing order in a case  
22 involving priest sex abuse because the judge failed to make findings in open court under a  
23 similar rule. *Doe v. Hartford Roman Catholic Diocesan Corp.*, 51 Conn. App. 287, 721 A.2d  
24 154, 155-56 (1998). Just as in this case, the Connecticut sealing order was defective, and the  
25 records belonged in the public domain. *Id.*; *see also Hagestad v. Tragesser*, 49 F.3d 1430,

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26  
27 <sup>2</sup> Copies of all non-Washington authorities are provided to the Court with its working papers.

1 1434 (9<sup>th</sup> Cir. 1995) (court in sexual abuse case that settled must make findings on the record  
2 regarding the public interest before sealing file).

3 Third, the sealing Order in this matter apparently has an unlimited effect, because after  
4 more than five years the court clerk still would not allow the Times to access anything but the  
5 docket index. It is difficult to imagine circumstances so compelling that the Court must  
6 permanently seal every detail of every document in a case *after* the case has settled. Moreover,  
7 *Ishikawa* specifically requires that the Court set a limited time for any sealing order. 97 Wn.2d  
8 at 38.

9 It is possible that the Order contains additional deficiencies, such as a lack of findings  
10 and conclusions, or a failure to consider less drastic alternatives, but the Times cannot confirm  
11 even the most basic details about the Court's decision. Because the Order fails to meet the  
12 procedural standards of GR 15(c)(2)(B), the Times urges this Court to lift the Order, unseal the  
13 files, and allow public access to the information.

14 **B. The Washington and U.S. Constitutions and the Common Law Create a**  
15 **Presumption of Access That Is Embodied in GR 15(c) and Prevents Sealing**  
16 **of Records.**

17 **1. Legal Standard: The Right of Access.**

18 Even if the Court had taken the required procedural steps under GR 15(c), constitutional  
19 and common law principles would have required that the records remain unsealed. Article 1,  
20 section 10, of the Washington State Constitution states that “[j]ustice in all cases shall be  
21 administered openly, and without unnecessary delay.” It guarantees the public and the press a  
22 right of access to court documents. “This separate, clear and specific provision entitles the  
23 public, and as noted . . . the press is part of that public, to openly administered justice.  
24 Moreover, by its terms it is not limited to trials but includes all judicial proceedings.”  
25 *Federated Pub’ns, Inc. v. Kurtz*, 94 Wn.2d 51, 59-60, 615 P.2d 440 (1980) (internal quotations  
26 and citation omitted); *accord Ishikawa*, 97 Wn.2d at 36.

27 The U.S. Supreme Court also has firmly established that under the First and Fourteenth  
Amendments to the U.S. Constitution, the press and general public have a constitutional right

1 of access. *See, e.g., Globe Newspaper Co. v. Superior Court*, 457 U.S. 596, 603 (1982); *see*  
2 *also NBC Subsidiary, Inc. v. Superior Court*, 20 Cal. 4<sup>th</sup> 1178, 980 P.2d 337, 86 Cal. Rptr. 2d  
3 778 (Cal. 1999) (First Amendment right of access applies to civil proceedings); *Globe*  
4 *Newspaper Co. v. Pokaski*, 868 F.2d 497 (1<sup>st</sup> Cir. 1989) (First Amendment right of access to  
5 records of closed criminal cases); *accord Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555  
6 (1980). This right is based on the public’s fundamental interest in the fair and open  
7 administration of justice and extends to court documents. *Seattle Times Co. v. United States*  
8 *Dist. Court*, 845 F.2d 1513, 1516 (9<sup>th</sup> Cir. 1988) (pretrial detention documents).

9       Beyond the Constitutional mandate of openness to all court proceedings, federal and  
10 Washington common law also create a “strong presumption in favor of access.” *San Jose*  
11 *Mercury News v. United States Dist. Court*, 187 F.3d 1096, 1102 (9<sup>th</sup> Cir. 1999); *see also*  
12 *Ishikawa*, 97 Wn.2d at 37-39; *Allied Daily Newspapers v. Eikenberry*, 121 Wn.2d 205, 210-11,  
13 848 P.2d 1258 (1993). “[A]ccess is particularly appropriate when the subject matter of the  
14 litigation is of especial public interest.” *In re Agent Orange Prod. Liab. Litig.*, 821 F.2d 139,  
15 146 (2d Cir. 1987); *see also Doe v. Marsalis*, 202 F.R.D. 233, 239 (N.D. Ill. 2001) (court  
16 documents presumed public “especially when they concern matters of general concern to the  
17 workings of our democratic society”). Washington has incorporated this presumption of access  
18 into the substantive standard of GR 15(c), by requiring parties to show “compelling  
19 circumstances” before obtaining an order sealing files. GR 15(c)(2)(B)(ii); *see also Ishikawa*,  
20 97 Wn.2d at 37-39.

21       While in some circumstances compelling interests may outweigh the right of access and  
22 the interests of the public, the public’s right “is not lightly to be deflected.” *Federal Trade*  
23 *Comm’n v. Standard Fin. Mgmt. Corp.*, 830 F.2d 404, 410 (1<sup>st</sup> Cir. 1987). As the U.S.  
24 Supreme Court has said

25       The presumption of openness may be overcome only by an overriding  
26 interest based on findings that closure is essential to preserve higher  
27 values and is narrowly tailored to serve that interest.

1 *Press-Enterprise Co. v. Superior Court* (“*Press-Enterprise I*”), 464 U.S. 501, 510 (1984).

2 Closure of proceedings and the underlying records, although not absolutely precluded, must be  
3 rare and only for cause shown that outweighs the value of openness. *Press-Enterprise I*, 464  
4 U.S. at 509.

5 The reason for these protections on the state and federal levels is two-fold: the  
6 presumption of access allows the public to monitor potential wrongdoing by parties, and, more  
7 importantly, it allows the public to “serve as an effective check on the [judicial] system itself.”  
8 *Federal Trade Comm’n*, 830 F.2d at 410. As one court noted, “it should go without saying that  
9 the judge’s opinions and orders belong in the public domain.” *Union Oil Co. of Cal. v. Leavell*,  
10 220 F.3d 562, 568 (7<sup>th</sup> Cir. 2000). Only by reviewing the record can the public ensure that the  
11 proceedings were fair and that our justice system is functioning effectively.

## 12 **2. Defendants Could Not Show Compelling Circumstances.**

13 Under GR 15(c), the party who seeks closure of records bears the burden of proof to  
14 justify sealing. GR 15(c)(2)(B); *Ishikawa*, 97 Wn.2d at 37-39. Sealing the records in this  
15 matter improperly violated both state and federal law, because the defendants could not have  
16 shown compelling circumstances. The sealing Order in this matter denied access –  
17 permanently – to even the reasoning of the Court. There is nothing in the record that would  
18 override the presumption that the public should be allowed to review the documents in the  
19 court file, especially on a subject of such public importance. Because the Times cannot review  
20 the Motion to Seal or the Court’s Order, it can only speculate on the defendants’ possible  
21 arguments for closure. Regardless, no argument should have succeeded in defeating the  
22 public’s rights.

23 Defendants may have claimed that privacy interests required sealing of the record.  
24 While Washington does recognize a limited right to privacy, privacy is not the same as  
25 embarrassment. Rather, in the analogous public records context, the information must be both  
26 (1) highly offensive to a reasonable person, and (2) not of legitimate public concern to justify  
27 withholding data from the public. RCW 42.17.255; *see also Hearst Corp. v. Hoppe*, 90 Wn.2d

1 123, 135-36, 580 P.2d 246 (1978). Allegations of misconduct, such as sexual abuse of children  
2 by a public official, do not meet the definition of private information because of the position of  
3 trust held by public officials. *See Brouillet v. Cowles Publ'g*, 114 Wn.2d 788, 798, 791 P.2d  
4 526 (1990) (records regarding allegations of sexual abuse by teachers released to public  
5 because of interest in allegations and in school's response to allegations).

6 Clergy and the Archdiocese hold positions of trust similar to those of public officials in  
7 our society. The public interest in receiving complete, accurate information regarding the  
8 alleged misconduct and the responses to that misconduct by the government and church leaders  
9 is similarly great. For example, the recent decision by President Bush to raise the issue with  
10 Vatican leaders depicts the public nature of the controversy and the broad based public concern  
11 in preventing additional abuse. As the court in one case involving sexual abuse by priests  
12 emphasized, the magnitude of the controversy and its public nature made privacy arguments  
13 unpersuasive:

14 Numerous allegations of improprieties similar to what has been  
15 alleged here have been made in this state and throughout the  
16 country . . . . How can the court speculate as to the amount of  
17 added harm revelation of the identity of these defendants will do  
18 and use that will-of-the-wisp conjecture to conclude that that  
19 speculative harm outweighs the public interest in learning of the  
20 existence of a suit against institutions educating and counseling  
21 thousands of its citizens?

22 *Doe v. Diocese Corp.*, 43 Conn. Supp. 152, 647 A.2d 1067, 1074 (1994). This month, another  
23 court in Connecticut held that the public interest trumped privacy concerns of clergy when it  
24 granted a motion by the New York Times to unseal records that included allegations of sexual  
25 abuse. *In re Application of the New York Times for Vacating Sealing Orders*, No. CV-02-  
26 0170932-S, Memorandum of Decision, (Dist. of Waterbury, Conn. Super. Ct., May 8, 2002).  
27 That decision is attached to this Motion as Exhibit A. The court noted the "extraordinary"  
public interest in protecting minors that would override claims of privacy by church leaders.  
Exh. A at 13. Similarly, the defendants in this matter cannot argue that their privacy interests

1 regarding such an important issue, as individuals or as an institution, could have created  
2 compelling circumstances that required sealing of the entire file after settlement.

3 The court docket index also does not show any claims of privilege made by defendants.  
4 Any truly privileged information, of course, could remain undisclosed, but defendants would  
5 first need to prepare a privilege log and release any information that did not fall within the  
6 privilege. The docket index does indicate that a protective order applied to some materials in  
7 the file, but it provides no explanation of the extent of, or justification for, the protective order.  
8 The protective order certainly could not justify sealing the entire file. It would be ludicrous for  
9 defendants to argue that they should be allowed to permanently conceal records about child  
10 sexual abuse allegations – an issue on which many segments of the public are *required* to  
11 report to authorities and about which U.S. bishops are gathering next month to create a protocol  
12 for reporting allegations to authorities. The Times urges the Court to lift the sealing Order  
13 because it improperly infringes on the constitutional and common law rights of the public  
14 without justification.

15 **C. The Public Interest in the Actions of McGreal and the Policies of**  
16 **Archdiocese Create Compelling Circumstances That Require Unsealing**  
17 **Under GR 15(d).**

18 GR 15(d) allows the Court to lift a sealing order, even if granted properly, when proof  
19 of “compelling circumstances” exists. GR 15(d)(2). The intensive controversy over the  
20 Archdiocese’s handling of allegations against clergy alone compels unsealing. In addition, new  
21 allegations against McGreal have arisen. The combination of interests creates compelling  
22 circumstances that mandate unsealing of the file.

23 **1. Public Scrutiny of the Archdiocese’s Policies Regarding Allegations**  
24 **Against Clergy Creates Compelling Circumstances.**

25 The controversy over clergy and sexual abuse of children does not involve isolated  
26 incidents that would interest only a select group of people. The debate implicates how public  
27 agencies, courts, and churches protect children from suffering horrific violations at the hands of  
those they trust. The public concern has spread worldwide. For example, the Pope convened a

1 special meeting of archbishops recently to discuss allegations and the appropriate response to  
2 them. The President of the United States even raised his concerns with the Vatican during a  
3 recent visit to Rome, and U.S. bishops are gathering in Dallas in June to develop a policy on  
4 how to respond to allegations. Church leaders on the east coast of the United States have faced  
5 widespread criticism for allegedly covering up improper behavior for decades.

6 The Archdiocese itself recently removed a priest in Everett after repeated allegations,  
7 and now some are questioning whether the Archdiocese sought to conceal earlier charges in  
8 this and other cases. The debate has spread to encompass law enforcement, as civil authorities  
9 and church leaders discuss protocols for reporting allegations of abuse. Meanwhile, the  
10 Archdiocese and its constituents continue to struggle with policies that will effectively protect  
11 children and preserve the public trust. People have questioned past decisions and have  
12 questioned the Archdiocese's commitment to correcting patterns of abuse today.

13 These controversies present compelling issues of health, safety, public trust, and  
14 extraordinary attempts to close judicial records to hide from public scrutiny. As the *Doe* court  
15 said in a priest sex abuse case:

16 It seems to the court that the public has an interest in the  
17 functioning and operation of large religious or charitable  
18 institutions whose activities in some cases, such as here, affect  
the lives of thousands of people.

19 43 Conn. Supp. 152, 647 A.2d at 1074. In the *Doe* case, the individual priests and the church  
20 leaders sought to proceed anonymously, but the court rejected their attempts because the public  
21 interest in the allegations was so compelling. *Id.* Other courts facing concerns about priest  
22 abuse and the church's reaction to that abuse have ruled similarly:

23 [T]his Court finds that the sexual abuse of children by members  
24 of the clergy is, quite properly, a matter of immense public  
25 concern and of enormous community interest. The public,  
26 especially those who belong to the same religious institution as  
the defendants, have a valid interest in knowing which members  
of their clergy have been accused of sexual abuse . . . and what  
steps, if any, have been taken by that religious institution in the  
face of these allegations.

1 *Globe Newspaper Co. v. Clerk of Suffolk County Superior Court*, available at, 2002 WL  
2 202464 (Mass. Super. 2002) (the potential impact of unproven allegations on church activities  
3 could not overcome public interest); *see also* Exh. A, at 11-14 (recent decision by Connecticut  
4 state court in a case alleging sexual abuse by clergy, in which the court emphasizes the public  
5 interest in the issue and orders records unsealed).

6 The interest is just as great here in Washington, where the steps the Archdiocese has,  
7 and has not, taken to prevent and to acknowledge priest abuse have become focal points for  
8 debate. The controversy is a compelling circumstance that meets the standard of GR 15(d) and  
9 requires unsealing.

## 10 **2. Ongoing Allegations Create Compelling Circumstances.**

11 While the overall controversy over the Archdiocese, its policies, and the greater  
12 questions of public trust are enough to meet the standard of GR 15(d), an additional compelling  
13 circumstance exists in this matter. The defendants now face a new lawsuit involving  
14 allegations against McGreal. The complaint accuses McGreal of sexually abusing altar boys in  
15 Seattle during the 1970s and accuses the Archdiocese of negligently retaining McGreal when it  
16 allegedly knew of his behavior. It is believed that one or more other parties may file additional  
17 lawsuits against McGreal and the Archdiocese.

18 The public interest in the prior allegations, and how the Archdiocese responded to them,  
19 is great. In light of the recent removal of another Archdiocese priest after revelations that the  
20 Archdiocese may have concealed abuse in years past, the public has an interest in past  
21 allegations against McGreal that the Archdiocese has sought to block permanently from public  
22 view. While unproven allegations certainly should not be assessed as truth, the public has a  
23 right to know about those allegations.

24 The Times urges this Court to unseal the file and prevent the defendants from  
25 continuing to use *ex parte* sealing orders as a means to avoid legitimate public scrutiny. The  
26 original sealing Order failed to comply with procedural requirements. Moreover, the  
27 defendants could not have met the substantive standards of constitutional and common law

1 even if they had followed procedural guidelines. Finally, compelling circumstances exist to  
2 open the files under GR 15(d). The public interest in how agencies, courts, and church leaders  
3 are responding to these controversies requires complete and immediate access.

4 **VI. PROPOSED ORDER**

5 A proposed order is filed herewith.

6 DATED this \_\_\_\_\_ day of August, 2002.

7 Davis Wright Tremaine LLP  
8 Attorneys for Intervenor Seattle Times Company

9  
10 By \_\_\_\_\_  
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