

ELECTRONICALLY FILED  
COMMONWEALTH OF KENTUCKY  
FAYETTE CIRCUIT COURT  
DIVISION 4  
CASE NOS. 16-CI-3065 & 16-CI-3594

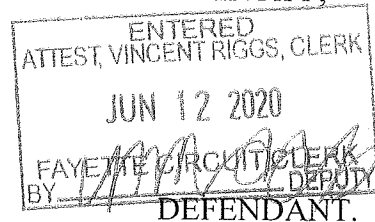
UNIVERSITY OF KENTUCKY,

PLAINTIFF,

v.

ORDER

LEXINGTON H-L SERVICES, INC.,  
d/b/a LEXINGTON HERALD LEADER,



\* \* \* \* \*

This matter is before the Court following the University of Kentucky's submission of documents for supplemental *in camera* review. The Court having now reviewed the sixty-six (66) submitted documents, considered the arguments of counsel, reviewed the file, and being otherwise sufficiently advised, IT IS ORDERED as follows:

1. The Court ORDERS that, with the exception of the documents addressed below, the documents submitted for supplemental *in camera* review shall be produced to the Herald-Leader for the reasons set out in the Court of Appeals' Opinion and Order and prior Orders entered by this Court. The Court finds and concludes that these documents are not subject to the attorney-client privilege, the work product doctrine, nor any exemption to the Open Records Act.

2. Notwithstanding the foregoing, the Court finds and concludes that the documents submitted for *in camera* review at Tab numbers thirteen (13) through seventeen (17) qualify as peer review records within the meaning of KRS 311.377(2). Although the Court recognizes that the peer review privilege is limited to suits for actions taken in the course of performing a peer review, *Sisters of Charity Health Sys., Inc. v.*

*Raikes*, 984 S.W.2d 464, 469 (Ky. 1998), as amended (Mar. 3, 1999), and that these documents are therefore subject to production under the Open Records Act, the Court ORDERS that they shall be produced to the Herald-Leader only after the University gives notice of this Order to the practitioners who are the subject of those documents of the Court's Order.

IT IS FURTHER ORDERED that the University shall file a Notice with the Court confirming the giving of notice to the practitioners within ten (10) days of the entry of this Order.

IT IS FURTHER ORDERED that the practitioners shall have a period of thirty (30) days from the date of the University's notice in which to intervene in this action for the sole purpose of filing any objection they have to the disclosure of the documents. Until the thirty-days have elapsed without intervention by the practitioners, or until the Court has resolved any objection raised by the practitioners, whichever occurs first, these documents shall remain under seal. If the thirty-day time period elapses without intervention by the practitioners, the University shall produce these documents to the Herald-Leader.

This the 10<sup>th</sup> day of June, 2020.

  
JULIE, FAYETTE CIRCUIT COURT

CLERK'S CERTIFICATE OF SERVICE

This is to certify that a true copy of the foregoing was served on all counsel of record through the Court's electronic filing system.

  
CLERK, FAYETTE CIRCUIT COURT

FAYETTE CIRCUIT CLERK  
