

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF KENTUCKY
Lexington Division

In re:

Lexington Blue, Inc.,

Debtor.

Case No. 25-50863
Chapter 11

United States Trustee's Objection to the Debtor's Motion for Entry of an Interim and Final Order Authorizing the Filing of the Consumer Mailing List Under Seal Pursuant to Fed. R. Bankr. P. 9037(f)

Paul A. Randolph, Acting United States Trustee, hereby objects to the Debtor's Motion for Entry of an Interim and Final Order Authorizing the Filing of the Consumer Mailing List Under Seal Pursuant to Fed. R. Bankr. P. 9037(f) (the "Motion to Seal") (ECF No. 8), and in support states as follows:

Notice of Hearing

Please take notice that this Motion will be heard by the Court on June 26, 2025 at 9:00 a.m. in the Second Floor Courtroom, U.S. Bankruptcy Court, 100 East Vine Street, Lexington, KY 40507.

I. Motion Background

1. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper pursuant to 28 U.S.C. § 1409. This matter is a core proceeding.
2. The United States Trustee has standing to bring this Motion pursuant to 11 U.S.C. §§ 307.

3. The Motion to Seal seeks to completely seal the creditor matrix for at least 263 customers where the Debtor took a downpayment on a roof repair but failed to complete the work. In the overwhelming majority of bankruptcy cases, a debtor's schedule E/F discloses the names and addresses of all creditors. In fact, schedule E/F specifically requires each debtor to list a creditor's "name and mailing address."

II. Bankruptcy Court's Zealously Protect the Public's Right to Open and Complete Information

4. Section 107 of the Bankruptcy Code provides that, unless an exception applies, "a paper filed in a [bankruptcy case] and the dockets of a bankruptcy court are public records and open to examination by an entity at reasonable times without charge." The ability of the general public to review and monitor bankruptcy proceedings is "rooted in the public's First Amendment right to know about the administration of justice." *Video Software Dealers Ass'n v. Orion Pictures Corp. (In re Orion Pictures Corp.)*, 21 F.3d 24, 26 (2d Cir. 1994). And this public policy is of "special importance in the bankruptcy arena, as unrestricted access to judicial records fosters confidence among creditors regarding the fairness of the bankruptcy system." *In re Motors Liquidation Co.*, 561 B.R. at 41; *In re Stone*, 587 B.R. 678, 681 (Bankr. S.D. Ohio 2018).

5. While there are statutory exceptions to the general rule that information contained within a bankruptcy case is public, "Courts have

zealously upheld the public's right to access and narrowly construed the exceptions." *In re Anthracite Cap., Inc.*, 492 B.R. 162, 176 (Bankr. S.D.N.Y. 2013). The belief that information "might conceivably or possibly fall within a protected category is not sufficient to seal documents." *Id.*

6. Because the baseline standard is that information filed within a bankruptcy case is public, the party seeking to seal certain information "bears the high burden of proof." *In re Stone*, 587 B.R. 678, 682 (Bankr. S.D. Ohio 2018). Additionally, if otherwise public bankruptcy information should be concealed, like a Social Security number, limited redaction is greatly preferred to the wholesale sealing of a document. *Id.*

7. The Motion to Seal seeks to prevent the disclosure of 263 individual creditor names and addresses, information that is routinely and without issue disclosed in hundreds or thousands of bankruptcy cases filed each year in the Eastern District of Kentucky. This is the exact same information contained within every phonebook in America, as well as what can be easily accessed from the Property Value Administration for each respective county. Additionally, Local Rule 1007-2 requires that a bankruptcy petition "must be accompanied by a separate mailing list containing the name, address, and zip code of all entities to be notified of the case including those listed in Schedules D – H."

8. While asking this Court for the extraordinary relief of sealing access to the majority of the Debtor's creditors, the Motion to Seal sites to § 107(c)(1) which provides that "the bankruptcy court, for cause, may protect an individual . . . to the extent that the court finds that disclosure of such information would create undue risk of identity theft or other unlawful injury." The Motion to Seal does not contain an explanation of why the disclosure of customer names and addresses creates a risk of identity theft or other harm.

9. The mere threat of harm is not sufficient to justify the sealing of otherwise public information. *United States v. Continental Airlines, Inc. (In re Continental Airlines, Inc.)*, 150 B.R. 334, 340–41 (D. Del. 1993) (refusing to seal documents based on "nothing more than the mere possibility" that they contained defamatory information); *In re Analytical Systems, Inc.*, 83 B.R. 833, 836 (Bankr. N.D. Ga. 1987) (stating that "possible embarrassment" to a party "is not a sufficient basis to justify sealing court records in the face of the express and important policy of public access to court records").

10. The party seeking to seal records must provide evidence of the harm to creditors, and more than conclusory statements are needed. *See, e.g., Republic of the Philippines*, 949 F. 2d 653, 663 (3d Cir. 1991); *Joy v. North*, 692 F.2d 880, 894 (2d Cir. 1982); *Publicker Indus. V. Cohen*, 733 F.2d 1059, 1071–73 (3d Cir. 1984) (court must make "specific findings" as sealing cannot

be based on speculation). The Debtor has not met the “high burden” that creditors will be harmed by the release of their name and address.

11. The United States Trustee is also concerned that sealing individual creditor names creates an “exception that swallows the rule,” as the justification present in the current case to completely seal the creditor matrix as it pertains to individual creditors could be made in essentially every case. Such an outcome is in direct conflict with the foundational bankruptcy policy favoring transparency, as well as making Local Rule 1007–2 meaningless.

12. The Debtor also attempts to justify the sealing of the creditor list because “[r]edaction of the mailing list is impractical due to the size and nature of the list.” ECF No. 8, ¶ 10. However, the convenience granted to the party requesting the wholesale sealing of a document does not override the public’s interest in open access to bankruptcy records. *In re Stone*, 587 B.R. 678 (Bankr. S.D. Ohio) (“[T]his Court concludes that it will not approve a process by which [creditor] is permitted to permanently restrict access to its proofs of claim filed in the bankruptcy cases in this district without providing redacted versions on the record”).

WHEREFORE, the United States Trustee respectfully requests that the Motion to Seal be DENIED.

Dated: June 24, 2025

Paul A. Randolph
Acting United States Trustee

By: /s/ Bradley M. Nerderman
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Certificate of Service

I certify that on June 24, 2025, I served a copy of the foregoing via ECF noticing upon all parties registered to receive notice electronically.

/s/ Bradley M. Nerderman
Bradley M. Nerderman