

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TENNESSEE  
AT CHATTANOOGA

FILED UNDER SEAL

In re:  
HERBERT S. MONCIER  
BPR NO. 1910

**Respondent's Motion For A Public Hearing; That This  
Proceeding Not Be Confidential; And That The Show Cause  
Order And All Pleadings Be Taken From Under Seal And Made  
Part Of The Public Record**

Respondent moves this Court Order a public hearing, that the proceedings are not confidential and that the Show Cause Order and pleadings be made a part of the public record.

**Memorandum**

EDTN LR 83.7(h)(1) provides:

(2) **Conduct of the Hearing.** The hearing shall be conducted by the judicial officer, who shall have the authority to resolve all disputes on matters of procedure and evidence which arise during the course of the hearing. All witnesses shall testify under penalty of perjury. Such hearings, at the discretion of the judicial officer, shall be confidential and shall be recorded. The record of the hearing shall be kept on file in the clerk's office, under seal.

Respondent request to have a public hearing.

Respondent is on the horns of a dilemma as to how to prepare where there is an order of confidentiality in place and everything is under seal.

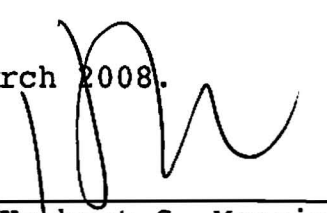
Respondent asserts a First Amendment Right to speak about these proceedings with others.

Respondent is informed that Chief Judge Collier has provided information about this matter to all of the judges in the Eastern District of Tennessee. The matter has "leaked" out into the legal community.

Presumably the confidential provisions were to protect members of the bar where a complaint was not found to be sufficient to conduct a hearing or impose discipline. With this Court determining that a hearing is to be held the purposes of confidentiality to protect Respondent no longer apply.

There is a presumption of openness of the federal courts. No reason exist that the Constitutional requirement of open court not apply to the proceedings against Respondent.

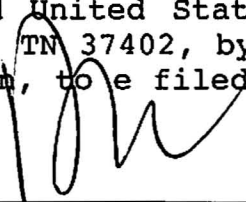
This 2 day of March 2008.

  
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Herbert S. Moncier  
Respondent

Herbert S. Moncier  
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BPR # 1910

**Certificate**

The undersigned certifies that on March 2, 2008, pursuant to the Court's directive, the foregoing has been served only upon Geneva Ashby, Division Manager, 209 Joel. W. Solomon Federal Building and United States Courthouse, 900 Georgia Avenue, Chattanooga, TN 37402, by United States Mail, with proper postage thereon, to be filed under seal.



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Herbert S. Moncier  
Respondent