



Everything New Orleans

The Times-Picayune

TP files protest in Copeland suit

Sealed documents violate access, it says

Friday, May 13, 2005

By Mary Swerczek

East Jefferson bureau

In violation of the public's right of access to the courts, documents have been filed under seal and at least one proceeding has been held in secret in a lawsuit against Al Copeland by his third wife, The Times-Picayune said in court papers filed Thursday.

The newspaper asked for transcripts of any closed hearings and access to sealed documents in Luan Hunter's federal suit against ex-husband Copeland, ex-judge Ronald Bodenheimer and others whom she accuses of conspiring to fix her child-custody case.

Bodenheimer, who presided over the custody case in state District Court in Gretna, has pleaded guilty to federal criminal charges stemming from the fixing of the case in ways favorable to Copeland. The restaurant magnate has said he did not know of the conspiracy, and he has not been charged with a crime.

In her civil case in federal court, Hunter, who was married to Copeland from 1990 to 2000, seeks unspecified damages for alleged violations of her rights to a fair hearing in state court. Her suit has been in litigation since 2003.

In one instance cited by the newspaper, one of its reporters was ordered to leave a March 30 court hearing, but U.S. Magistrate Judge Karen Wells Roby failed to offer a compelling reason to obstruct the public's right to access and to hold a hearing on the need for secrecy.

Ten documents that have been filed under seal were not recorded in the case's public docket. The newspaper therefore could determine the exact nature of only one of those filings: Hunter's motion to compel the testimony of Robert Lowe, Copeland's attorney in the child-custody dispute.

The newspaper contends Roby should have justified the sealing in a formal finding and included a specific description of the documents being sealed and the reason for the closure.

In October, Roby prohibited all parties to the suit from disclosing financial, medical and business proprietary information.

Instead of shielding only that information, whole documents, pleadings and testimony have been filed under seal, the newspaper said. The newspaper objected to wholesale sealing and asked that the records be unsealed entirely or with only financial, medical and business information edited out.

"When a trial involves allegations of wrongdoing by public officials, as does this one, the public's right to know is even more compelling," the newspaper said in its filing.