

The South Carolina Court of Appeals

North American Rescue Products, Inc., Appellant,

v.

P. J. Richardson, Respondent.

Appellate Case No. 2012-212748

ORDER

The parties have filed a consent motion to seal all appellate filings in this case. The parties contend that filing under seal is necessary because this court will not be able to properly and fully analyze the issues on appeal if the parties merely redacted Respondent's private and confidential financial information.

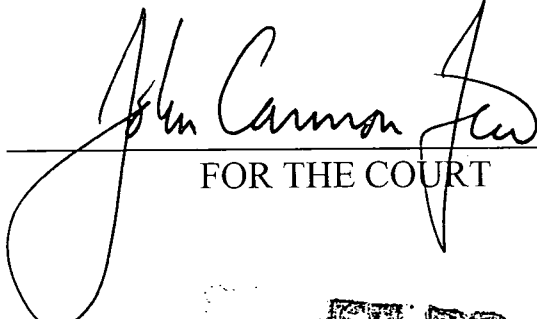
Although there is no provision in the South Carolina Appellate Court Rules for sealing records in the appellate court, we have the inherent power to control our own records. *See Ex parte Capital U-Drive-It, Inc.*, 369 S.C. 1, 12, 630 S.E.2d 464, 470 (2006). In *Ex parte Capital U-Drive-It*, the Supreme Court of South Carolina analyzed Rule 41.1(b), SCRCP, in deciding whether to seal or unseal a court record. 369 S.C. at 12, 630 S.E.2d at 470. Rule 41.1 requires a motion to seal to identify, with specificity, the documents or portions of documents for which sealing is considered necessary and to contain a non-confidential description of the documents. The Rule also requires the moving party to state the reasons why sealing is necessary, explain why less drastic alternatives to sealing will not afford adequate protection, and address the following factors:

- (1) ensuring the parties' right to a fair trial or hearing;
- (2) the need for witness cooperation;
- (3) the reliance of the parties upon expectations of confidentiality of the proceeding;
- (4) the public or professional significance of the proceeding;
- (5) the perceived harm to the parties from disclosure;
- (6) why alternatives other than sealing the documents are not available to protect legitimate private

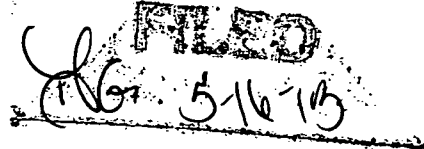
interests; and (7) why the public interest, including, but not limited to, the public health and safety, is best served by sealing the documents.

When ruling on a motion to seal, the Supreme Court of South Carolina has held the court may also consider the public interest in the proceeding; the private or public status of the litigants and case generally; whether release would enhance the public's understanding of an important historical event; whether the public already has access to information contained in the records; whether a particular decision will sustain or offend the fundamental interests of public access, and any other relevant factors. *Ex parte Capital U-Drive-It, Inc.*, 369 S.C. at 12, 630 S.E.2d at 470 (2006).

After careful consideration, the motion to seal the entire appellate file in this case is denied. However, this court recognizes the importance of Respondent's privacy interest in his financial information. Accordingly, the parties shall redact their filings with this court to the extent necessary to protect Respondent's privacy. Pursuant to *In re Interim Guidance*, 375 S.C. 56, 650 S.E.2d 462 (2007), the parties may file an unredacted version of their filings under seal together with the redacted versions for the public file. These sealed unredacted documents should be filed in a separate appendix and the bottom of each page of the appendix shall be marked "Sealed."


FOR THE COURT

Columbia, South Carolina



cc:

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