

The South Carolina Court of Appeals

Tony A. Billips, individually and as a derivative shareholder of Alex's Restaurants, Inc., Respondent,

v.

Carolyn A. Billips, individually and as Trustee for the benefit of Anthony Billips, William Casey Ivey, and Alex Billips, and as controlling person of Alex's Restaurants, Inc., and Alex's Restaurants, Inc., Appellants.

Appellate Case No. 2022-000078

ORDER

Appellant has filed a motion to seal certain portions of the briefs and record on appeal in this matter. Although there is no provision in the South Carolina Appellate Court Rules for sealing records in the appellate court, the court has the power to control its own records. *See Ex parte Capital U-Drive-It, Inc.*, 369 S.C. 1, 12, 630 S.E.2d 464, 470 (2006). Rule 41.1(b), SCRCP, requires a motion to seal to identify, with specificity, the documents or portions of documents for which sealing is considered necessary, to contain a non-confidential description of the documents, and to be accompanied by a separately sealed attachment labeled "Confidential Information to be submitted to Court in Connection with the Motion to Seal." 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.

Id. When ruling on a motion to seal, 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.

After careful consideration, Appellant's motion to seal is denied. Appellant has failed to address any of the factors enumerated in Rule 41.1, SCRCP, and *Ex parte Capital U-Drive-It, Inc.*



FOR THE COURT

Columbia, South Carolina

FILED
Oct 04 2022

cc:

Jaun Gunnar Rannik, Esquire
Michael W. Sautter, Esquire
O. Grady Query, Esquire
Alexander Woods Tesoriero, Esquire