



The South Carolina Court of Appeals

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November 22, 2023

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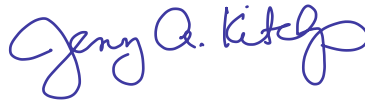
Mrs. Mary Abigail Young Bechtol, Esquire
101 S Tryon Street.
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Charlotte NC 28280

Re: HSS Barefoot, LLC v. Joel D. Barber
Appellate Case No. 2023-000192

Dear Counsel:

Enclosed is the Court's decision on the joint motion to seal. The record on appeal and final briefs are to be served and filed within 20 days from the date of this letter.

Very truly yours,

A handwritten signature in blue ink, reading "Jenny A. Kitzly". The signature is written in a cursive style with a large initial "J" and a long, sweeping underline.

CLERK

Enclosure

The South Carolina Court of Appeals

HSS Barefoot, LLC d/b/a Century 21 Barefoot, R&G Corp d/b/a Century 21 The Harrelson Group, Kevin Mills, individually, Mills, LLC, and Greg Harrelson, individually, Respondents,

v.

Joel D. Barber, individually and as licensed realtor, Barber Real Estate, Inc., Nicholas Fitzpatrick, as licensed realtor, Darcy Varney, individually and as broker-in-charge, eXp Realty, LLC, James Ray Lunsford, individually and as broker-in-charge, and Northgroup Real Estate, Inc., Defendants,

Of Whom Joel D. Barber is the Appellant.

Appellate Case No. 2023-000192

ORDER

The parties have filed a joint motion to file certain "Confidential Documents" under seal with this court, as they did before the circuit court pursuant to a "Stipulated Confidentiality and Protective Order."

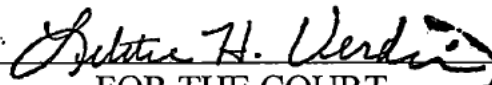
Although there is no provision in the South Carolina Appellate Court Rules for sealing records in the appellate court, we have the power to control our own records. *See Ex parte Capital U-Drive-It, Inc.*, 369 S.C. 1, 12, 630 S.E.2d 464, 470 (2006). In *Ex parte Capital U-Drive-It*, the Supreme Court of South Carolina analyzed Rule 41.1(b), SCRCF, in deciding whether to seal or unseal a court record. 369 S.C. at 12, 630 S.E.2d at 470. Rule 41.1(b), SCRCF, 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." Rule 41.1 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 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).

Because the parties included in their motion a sufficient analysis of the above factors, the documents were sealed below, and the parties consent to seal the documents, we grant the motion. *See* Rule 41.1(b), SCRCF; *Ex parte Capital U-Drive-It, Inc.*, 369 S.C. 1, 12, 630 S.E.2d 464, 470 (2006). Appellants shall deliver the "Confidential Documents" to this court for *in camera* review, separately from the record on appeal.


FOR THE COURT

Columbia, South Carolina

cc:
Christian Hart Staples, Esquire
Jason Alan Daigle, Esquire

FILED
Nov 22 2023

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