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Jul 16 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

The Honorable Diane Schafer Goodstein
Beaufort County
Trial Court Case No. 2021-CP-07-02165

APPELLATE CASE NO. 2024-000105

Turner's Marina, LLC,

Appellant,

v.

Daniel Hyde, Laura Hyde and

John William Caput,

Respondents.

MOTION TO SEAL

Respondent John William Caput hereby moves this Honorable Court for an Order allowing the Respondents to file their joint initial brief under seal. The reasons for the need to file the Respondents' Initial Brief under seal is that the Respondents consented to a Consent Confidentiality and Protective Order¹ in the circuit court and Respondents discuss, refer to, and quote confidential financial documents in their brief that are the subject of this appeal. The confidential financial documents are profit and loss statements and the tax returns of the Appellant

¹ Attached hereto as Exhibit A

Turner's Marina, LLC. These materials are referred to and quoted in the argument section of the Respondents' Joint Initial Brief.

Respondents are prohibited in the Consent Confidentiality and Protective Order from disclosing the contents of confidential financial documents to unauthorized third parties and as Respondents' brief will be available to the public if it is not filed under seal, the Respondents would violate the Consent Confidentiality and Protective Order by filing their initial and final briefs in this matter. Further, Appellant has indicated that the record on appeal contains these same documents that should be filed under seal.

Finally, the Appellant has not yet filed the Consent Confidentiality and Protective Order with the circuit court, nor has the circuit court entered the Consent Confidentiality and Protective Order; however, both Respondents have signed and consented to the Consent Confidentiality and Protective Order and Respondent Caput's counsel has asked Appellant to file the Consent Confidentiality and Protective Order so that it may be entered by the circuit court prior to the filing of Respondents' Joint Initial Brief.

Respectfully submitted,

SHELTON LAW FIRM, LLC

/s/ S. Harrison Williams

Benjamin T. Shelton, S.C. Bar No. 77207
S. Harrison Williams, S.C. Bar No. 102410
P.O. Box 21069
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Attorneys for John William Caput

Hilton Head Island, South Carolina
July 16, 2024

EXHIBIT A

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT)	
)	Case No. 21-CP-07-2165
TURNER'S MARINA LLC,)	
)	
Plaintiff,)	
)	CONSENT
vs.)	CONFIDENTIALITY
)	AND PROTECTIVE ORDER
)	
DANIEL HYDE, LAURA HYDE,)	
and JOHN WILLIAM CAPUT,)	
)	
Defendants.)	
_____)	

The parties in this matter mutually agree on this Confidentiality and Protective Order, as follows:

1. The parties in this litigation have requested and may in the future request sensitive records that are necessary for use in this lawsuit, but are private and confidential and, therefore, Plaintiff and the Defendants have requested protection against improper disclosure. This Protective Order shall apply whether the materials or documents have been produced pursuant to formal discovery, by subpoena or by agreement. Further, the parties agree that any documents produced in discovery in this case that are marked confidential pursuant to this Order, are to be used only in this pending litigation and all parties are prohibited from using any such documents in other litigation or providing copies of same to third parties in derogation of this Order.

2. The term "documents" as hereinafter used includes, but is not limited to, written, photographic or electronic media extracts, summaries thereof and attachments thereto; answers to interrogatories; requests for admission and answers thereto; deposition and trial transcripts and exhibits; answers to requests for production and documents produced; and any portions of Court papers which quote from or summarize any of the foregoing.

3. All documents, information and/or similar materials produced in this litigation, or specific portions thereof, may be marked or otherwise designated by the parties as "confidential" if:

- (a) They contain financial or other proprietary information that is held confidential by any party; or
- (b) They are part of an individual's personnel file or similar file, including the individual's identifying information such as his or her name, address, and telephone number, that a party to this litigation treats as confidential; or
- (c) They describe, contain, or disclose internal corporate information that is held confidential within the corporation; or
- (d) They contain medical records or other health care information, even if health care information is produced by a third party pursuant to stipulation or subpoena.

The determination of whether produced materials fall into one of the above categories shall be made in the first instance by the party from whom the discovery is sought. If the party seeking discovery disagrees with the designation of any discovery materials as confidential, counsel shall attempt to resolve the disagreement on an informal basis. If it is necessary to present the dispute to the Court for resolution, the material in question shall continue to be treated as confidential under the terms of this Order unless and until the Court issues a final ruling that the material is not of a confidential nature.

4. The parties recognize that discovery may disclose that further categories of documents should also be treated as "confidential". Entry of this Protective Order does not foreclose further agreements by counsel to keep documents confidential or application to the Court for protection of other confidential information.

5. If any of the parties determines to mark information as confidential, that shall be done by stamping each confidential page of the documents with the notice "confidential" prior to its production or, in the case of documents produced by non-parties to this litigation, within thirty (30) days of their receipt by counsel of record, the party requesting protection under this order

shall notify opposing counsel in writing for which documents it is requesting a designation of "confidential" under this Order. In the case of non-documentary materials, "confidential" shall be marked prominently on the item.

6. Except as expressly provided for in this Protective order, "confidential" materials and documents and any information contained therein shall not be communicated or disclosed in any manner, either directly or indirectly, to any person or entity not specifically identified below in paragraph 8 and shall be used only for the prosecution and/or defense of *this* litigation and for no other purpose. The parties agree that this order shall be applicable to all documents produced in this litigation before and after the date of this order.

7. "Confidential" documents may be referred to in interrogatory answers, motions and/or briefs and may be used in depositions and marked as deposition exhibits in this litigation. However, no such document should be used for any of these purposes unless it, or the portion of the court paper wherein it is revealed, is appropriately marked and, if filed with the Court, is filed under seal. Nothing in this Protective Order shall limit or prevent the use of any "confidential" document or material in open court at hearings in or during the trial of this litigation, provided that such use shall not relieve the parties from their obligations under this order, including, without limitation, the obligation to file "confidential" documents under seal.

8. Except as provided above or pursuant to another Court order, "confidential" documents shall not be disclosed to anyone except:

- (a) The attorneys of record and his or her employees involved in the conduct of this litigation;
- (b) Any person who was an author or addressee of the document or who is shown on the document as having received a copy of it;
- (c) The Court, jury, Court personnel, Court reporters and similar Court personnel;
- (d) Any deposition or trial witness in this litigation when shown to such witness before or during his or her testimony, provided the confidential item shown

to the witness has a reasonable and bona fide relationship to his or her testimony and subject to paragraph 11 below;

- (e) Consultants and experts retained in good faith by any party for purposes of assisting in the preparation, investigation or presentation of claims or defenses in this litigation;
- (f) Plaintiff;
- (g) Defendants Daniel Hyde, Laura Hyde and John William Caput;
- (h) Any claims handlers or insurance representatives involved in any aspect of this litigation; and,
- (i) Any mediator participating in any court-ordered or voluntary mediation conference.

9. Prior to being shown "confidential" documents, any person falling within subparagraph 8 d, e, h and i, shall agree in writing to be bound by the terms of this order by signing an agreement to be found in the form of Attachment A hereto.

10. Any Deponent may, before or during the deposition, be shown and examined about stamped confidential documents subject to the terms of this Protective Order.

11. Any of the parties may, within thirty (30) days after receiving a deposition transcript, designate pages of that transcript, and exhibits thereto not already designated confidential, as "confidential". Confidential information within the deposition transcript may be designated by underlining the portions of the pages that are confidential and marking such pages with substantially the following legend: "Confidential — subject to protection pursuant to Court Order". Until the expiration of the 30-day period, the entire deposition will be treated as subject to protection against disclosure under this order. If a party does not timely designate confidential information in a deposition, then none of the transcript or its exhibits not previously designated as confidential will be treated as confidential unless otherwise agreed by the parties or ordered by the Court. If a timely designation is made, the confidential portions and exhibits shall be filed under seal. Nothing in this Protective Order shall limit the use of any deposition testimony or exhibits designated "confidential" in open court at any hearing in or during the trial of this

litigation, provided that such use shall not relieve the parties from their obligations under this Order, including, without limitation, the obligation to file "confidential" documents under seal.

12. Subject to the South Carolina Rules of Evidence, stamped confidential documents and other confidential information may be offered in evidence at trial or any court hearing. Any party may move the Court for an order that the evidence be received in camera or under other conditions to prevent unnecessary disclosure. The Court will then determine whether the proffered evidence should continue to be treated as confidential information and, if so, what protection, if any, may be afforded to such information at the trial.

13. No later than fifteen (15) days following the "conclusion of these proceedings", as defined below, each parties' counsel shall return all "confidential" material to counsel for the party producing the confidential document(s), together with all abstracts, copies and other documents containing any information contained within the documents, including those portions of depositions designated as confidential pursuant to the Protective Order. No later than fifteen (15) days following the "conclusion of these proceedings", as defined below, Defendant's counsel shall return all "confidential" material to counsel for Plaintiff, together with all abstracts, copies and other documents containing any information contained within the documents, including those portions of depositions designated as confidential pursuant to the Protective Order. "Conclusion of these proceedings" refers to the conclusion of this matter by trial or settlement and, if concluded by trial, the exhaustion of available appeals or the running of time for taking such appeals, as provided by applicable law.

14. The parties agree that strict compliance with this Order is essential to achieving their aim of protecting legitimate interests in preserving the privacy and confidentiality of properly designated documents and information. For this reason, the parties agree that the provisions of this Protective Order shall be strictly complied with and enforced. The parties expressly acknowledge and agree that all remedies under Rule 37 of the South Carolina Rules of Civil

Procedure will be available to the Court, in its discretion, to sanction any violation of this order, including the first violation.

15. In order to ensure the intent of this Protective Order, only person and entities identified herein are to be provided access to the “confidential “ documents herein.

AND IT IS SO ORDERED this ____ day of November, 2023.

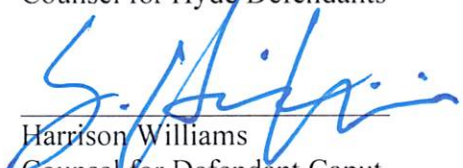
Circuit Court Judge

I so move.

Thomas C. Taylor
Counsel for Plaintiff

We agree:

Russell Patterson
Counsel for Hyde Defendants



Harrison Williams
Counsel for Defendant Caput

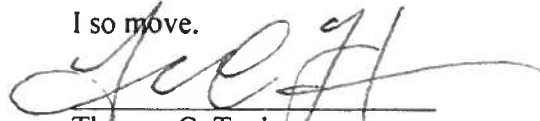
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AND IT IS SO ORDERED this ____ day of November, 2023.


Circuit Court Judge

I so move.



Thomas C. Taylor
Counsel for Plaintiff

We agree.



Russell Patterson
Counsel for Hyde Defendants

Harrison Williams
Counsel for Defendant Caput

ATTACHMENT A

I, _____, have been advised by counsel of record for Plaintiff or counsel of record for Defendants (circle one) in the case of TURNER'S MARINA LLC v. DANIEL HYDE, LAURA HYDE AND JOHN WILLIAM CAPUT designated 2021-CP-07-02165, of the Protective Order governing delivery, exhibition, publication, or disclosure to me of confidential documents and information produced in this litigation, together with the information contained therein. I have read a copy of said Protective Order and agree to abide by its terms, including its limitation on any further delivery, exhibition, publication or disclosure of documents and information subject to the order.

[Printed Name]

SUBSCRIBED AND SWORN to me this day of _____, 2023.

[Signature]

[Printed or Typed Name]

NOTARY PUBLIC
State of South Carolina

My Commission Expires: _____

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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

The Honorable Diane Schafer Goodstein
Beaufort County
Trial Court Case No. 2021-CP-07-02165

APPELLATE CASE NO. 2024-000105

Turner's Marina, LLC,

Appellant,

v.

Daniel Hyde, Laura Hyde and

John William Caput,

Respondents.

PROOF OF SERVICE

The undersigned hereby certifies that on July 16, 2024, he served all counsel of record in this matter with Respondent Caput's Motion to Seal by emailing a copy of same to counsels' AIS email addresses as follows: tom@thomastaylorlaw.com and russell@russellpattersonlaw.com as evidenced by the email attached hereto as Exhibit 1.

July 16, 2024

[Signature Page Follows]

SHELTON LAW FIRM, LLC

/s/ S. Harrison Williams

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Attorneys for John William Caput

Harrison Williams

From: Harrison Williams
Sent: Tuesday, July 16, 2024 10:10 AM
To: Russell Patterson; tom@thomastaylorlaw.com
Cc: donna@thomastaylorlaw.com; Brooklyn Valentine
Subject: Turner v. Caput: Appellate Case No. 2024-000105
Attachments: Respondent Caput's Mtn to Seal.pdf

Russell and Tom,

Please see the attached Motion to Seal that will be filed with the Appellate Court today.

Best regards,

Harrison



SHELTON LAW FIRM

S. Harrison Williams

Lawyer

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WE ARE MOVING! Come see
us at the Village at Wexford after
July 1, 2024

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