

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

69578

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Letitia H. Verdin, Circuit Judge

C.A. No. 2012-CP-23-1735

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AUG 28 2013

Appellate Case No.: 2013-000690

SC Court of Appeals

Hidria USA, Inc.Appellant,

v.

Delo, d.d., d/b/a *Slovenske Novice*Respondent.

**RESPONDENT'S CONSENT MOTION
TO FILE THE PORTIONS OF THE RECORD ON APPEAL
CONTAINING RESPONDENT'S DISCOVERY DOCUMENTS UNDER SEAL**

Respondent Delo, d.d., d/b/a *Slovenske Novice* respectfully moves the Court to allow certain portions of the record on appeal to be filed under seal because it contains discovery documents provided by Respondent in response to the Circuit Court's Order compelling disclosure of information of a proprietary and confidential nature. "Public access to court records may be restricted in certain situations, such as matters involving juveniles, legitimate trade secrets, or information covered by a recognized privilege. Restrictions may be based on a statute or the court's inherent power to control its own

records and supervise the functioning of the judicial system.” *Ex Parte Capital U Drive-It, Inc.*, 369 S.C. 1, 10 630 S.E.2d 464, 469 (2006).

In deciding whether to seal or unseal a court record, the court must make specific factual findings, on the record, which weigh the need for secrecy against the right of access. The burden is on the party who seeks to overcome the presumption of access to show that the interest in secrecy outweighs the presumption. The court must consider 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. In addition, the court may consider (8) public interest in the proceeding; (9) the private or public status of the litigants and case generally; (10) whether release would enhance the public's understanding of an important historical event; (11) whether the public already has access to information contained in the records; (12) whether a particular decision will sustain or offend the fundamental interests of public access, and any other relevant factors.

Id. at 12, 630 S.E.2d at 470

Here, the matter before the Court concerns the determination of personal jurisdiction over a foreign entity. Sealing the discovery responses concerning jurisdictional matters secures witness participation and contributes to the fairness of the jurisdictional hearing. Additionally, it is necessary to seal the instant documents to preserve the privacy rights of Respondent in protecting its proprietary and confidential information, as well as comply with the Slovenian privacy laws. Attached to this motion as Exhibit A is the Circuit Court's Order sealing these same documents from public disclosure in the Circuit Court proceedings.

The undersigned has communicated with counsel for the Appellant Hidria USA, Inc., who has graciously consented to sealing these portions of the record on appeal.

For the foregoing reasons, Respondent respectfully requests that the portions of the record on appeal containing Respondent's discovery responses be filed under seal.



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Meliah Bowers Jefferson (SC Bar Id. No. 74064)
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Attorneys for Respondent Delo, d.d.

August 27, 2013

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
CASE NO.: 2012-CP-23-1735

Hidria USA, Inc.,

Plaintiff,

vs.

Delo, d.d., d/b/a *Slovenske Novice*,

Defendant.

**ORDER GRANTING MOTION TO FILE
CERTAIN DISCOVERY DOCUMENTS**

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33 Court of Appeals

This matter comes before the Court on Defendant's Motion to File Certain Discovery Documents Under Seal filed by Defendant Delo, d.d., d/b/a *Slovenske Novice* ("Delo") on October 29, 2012. In the motion, Delo seeks leave to file under seal certain proprietary and confidential documents and materials which are responsive to this Court's Order of October 15, 2012 and Plaintiff's discovery requests. The subject proprietary and confidential documents and materials were submitted to the Court for its *in camera* review. The Court, having reviewed the Motion for Leave to File Under Seal and the subject proprietary and confidential documents and materials, makes the following findings:

1. Delo's motion to file the proprietary and confidential documents and materials under seal was afforded to the Plaintiff, along with said proprietary and confidential documents and materials, and counsel for the Plaintiff has agreed to treat the responsive documents as proprietary and confidential;

2. The responsive documents and materials contain proprietary and confidential information. Because proprietary and confidential material appears throughout the responsive



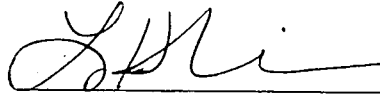
documents and materials, sealing is the appropriate remedy.

For these reasons, Delo's Motion to Seal is granted.

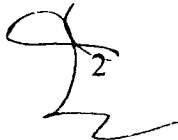
AND IT IS SO ORDERED.

Date:

11/21/12



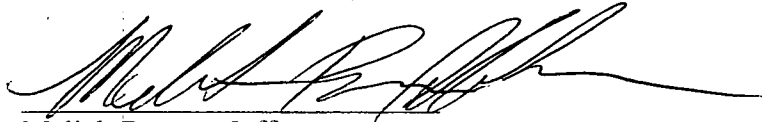
The Honorable Letitia H. Verdin



Certificate of Service

The undersigned counsel for respondent certifies that the foregoing motion has been served upon all other counsel of record by depositing copies of same in the U.S. Mail, first-class postage prepaid, addressed as follows:

Phillip E. Reeves (S.C. Bar No. 4672)
Jennifer Eubanks (S.C. Bar No. 66652)
GALLIVAN, WHITE & BOYD, P.A.
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SC Court of Appeals

W Y C H E

Attorneys at Law

By Federal Express

August 27, 2013

Hon. Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1015 Sumter Street
Columbia, South Carolina 29201

RE: *Hidria, USA, Inc. v. Delo, d.d., d/b/a Slovenske Novice*
Appellate Case No. 2013-000690

Dear Ms. Kitchings:

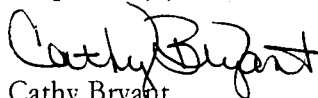
Enclosed please find for filing with the Court the originals and one copy of each of the Respondent's Consent Motion to File the Portions of the Record on Appeal Containing Respondent's Discovery Documents Under Seal and Proof of Service in connection with the above-referenced matter. Please return a file stamped copy of each in the enclosed self-addressed, stamped envelope.

Also enclosed is our firm check in the amount of \$25.00 to cover the required motion filing fee.

By copy of this letter we are serving copies of these documents on counsel for Appellants.

Thank you for your assistance.

Respectfully yours,



Cathy Bryant
Litigation Paralegal
(864) 242-8262
cbryant@wyche.com

Enclosures

c: Philip E. Reeves, Esq.
Jennifer D. Eubanks, Esq.
Wallace K. Lightsey, Esq. (*via electronic mail; w/o enclosures*)
Meliah Bowers Jefferson, Esq. (*via electronic mail; w/o enclosures*)

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COURT OF Appeals

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