

# The South Carolina Court of Appeals

Eugenia Boggero, d/b/a Boggero's Portable Toilets,  
Appellant,

v.

South Carolina Department of Revenue, Respondent.

Appellate Case No. 2014-000214

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## ORDER

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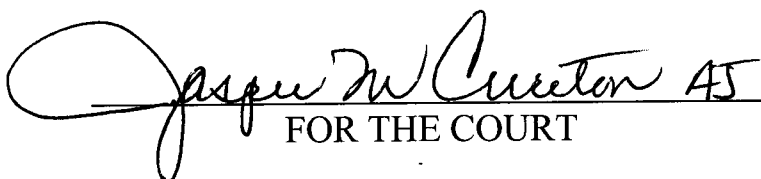
Respondent has filed a motion to seal an exhibit to be included in the record on appeal and what his Court construes as a motion for an extension to file the record on appeal. Although there is no provision in the South Carolina Appellate Court Rules for sealing records in the appellate court, we have 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). Rule 41.1(b), SCRPC, 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.* 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, Respondent's motion to seal is denied. Further, because, pursuant to the South Carolina Appellate Court Rules, the appellant files the record on appeal, Respondent's motion for an extension is denied. *See* Rule 210(b), SCACR. However, due to the amount of information that needs to be redacted in order to comply with our supreme court's order regarding personal identifiers, Appellant will file a redacted version of the exhibit in question within thirty days of this order. *See* Rule 263(b), SCACR ("The time prescribed by these Rules for performing any act except the time for serving the notice of appeal . . . may be extended or shortened by the appellate court, or by any judge or justice thereof."). If Appellant should need more time to prepare the exhibit in question, it may move for an extension, which may be granted upon a showing of good cause.

  
FOR THE COURT

Columbia, South Carolina

cc:

Roy R. Hemphill, Esquire  
Hannah Khristin Metts, Esquire  
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Carol I. McMahan, Esquire  
Milton Gary Kimpson, Esquire  
Harry T. Cooper, Jr., Esquire

7/25/14  
**FILED**