

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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SC Court of Appeals

74402

APPEAL FROM Horry COUNTY  
Court of Common Pleas

Steven H. John, Circuit Court Judge

Case No. 2011-CP-26-7403

Randall M. Green and Ann Green,.....Respondents-Appellants,

v.

Wayne B. Bauerle, M.D. and  
Wayne B. Bauerle, M.D., P.C.,.....Appellants-Respondents.

**MOTION TO SEAL COVENANT**

Pursuant to Rule 261(a), SCACR and the standard provided by Rule 41.1, SCRCP, Respondents-Appellants, Randall M. Green and Ann Green, respectfully move this Court to seal the Covenant Not to Sue and Covenant Not to Execute Judgment entered into between Plaintiffs and Grand Strand Regional Medical Center ("Covenants") and submitted to the Appellate court as part of the Record on Appeal. The grounds for this motion are set forth in detail below.

Plaintiff requests that the Covenants be filed under seal because Respondents/Appellants and Grand Strand Regional Medical Center ("GSRMC") designated the documents as

confidential. The Covenants are confidential settlement agreements entered into between Respondents/Appellants and GSRMC, a defendant who was originally named in the lawsuit but settled and therefore was not involved in the trial giving way to this appeal. The Covenants describe the terms and amount of the settlement. GSRMC relied upon their expectations of confidentiality when they settled the case by entering into the Covenants. Revealing the terms of the settlement contained in the Covenants will disclose confidential settlement information. The public will not benefit significantly from knowing the amount and terms of Respondents/Appellants' settlement with a party no longer involved in the lawsuit. Everything included in the Record on Appeal is accessible to the public and the contents of the Covenants has the potential to affect the professional integrity of GSRMC as a renowned hospital in the low country. The public often looks at settlement agreements as an admission of guilty, which is why they are often kept confidential. As such, GSRMC would be harmed by the public's perception of GSRMC's fault. Further, there are no alternatives available to protect the settling defendant's legitimate privacy interests other than sealing the document. Lastly, the public interest is best served by sealing the documents because doing so encourages settlement.

Accordingly, Respondents/Appellants respectfully submit this Motion for an Order permitting it to file under seal the Covenant Not to Sue and Covenant Not to Execute Judgment entered into between Respondents/Appellants and Grand Strand Regional Medical Center in the Record on Appeal.

Until this Motion is ruled on, Plaintiffs respectfully request that the Court of Appeals Clerk of Court treat this material as sealed pursuant to the standard set forth in Ex parte Capital U-Drive-It, Inc., 369 S.C. 1, 630 S.E.2d 464 (2006) and Davis v. Jennings, 304 S.C. 502, 405 S.E.2d 601 (1991).

December 3, 2014

Respectfully submitted,

E. Brooke Hurt

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Michael W. Sautter, Esquire  
Michèle Patrão Forsythe, Esquire  
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Counsel for Respondents-Appellants

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**PROOF OF SERVICE**

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I certify that I have served Respondents/Appellants' Motion to Seal on Wayne B. Bauerle, M.D. and Wayne B. Bauerle, M.D., P.C. by depositing a copy of it in the United States Mail, postage prepaid, on December 3, 2014 addressed to his attorneys of record at their offices as follows:

John B. McCutcheon, Jr., Esquire  
Lisa A. Thomas, Esquire  
Thompson & Henry, P.A.  
Post Office Box 1740  
Conway, South Carolina 29528

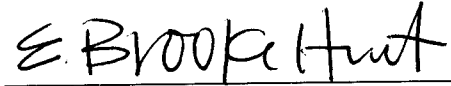
Andrew F. Lindemann, Esquire  
Davidson & Lindemann, P.A.  
Post Office Box 8568  
Columbia, South Carolina 29202

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\*Certified National Trial Advocacy Civil Trial Specialist

Michèle Patrão Forsythe\*\*\*

\*\*\*Certified Family Court Mediator

Michael W. Sautter\*\*

\*\*Managing Partner

Elizabeth Brooke Hurt

December 3, 2014

## Via U.S. Mail

The Honorable Jenny Abbott Kitchings  
South Carolina Court of Appeals Clerk of Court  
Post Office Box 11629  
Columbia, South Carolina 29211

RE: Randall M. Green and Ann Green vs. Wayne B. Bauerle, MD and Wayne B.  
Bauerle, MD, PC  
Case: 2011-CP-26-7403  
Appellate Case No. 2014-000460

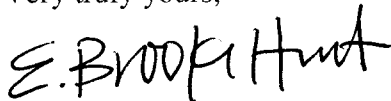
Dear Ms. Kitchings:

Enclosed for filing please find an original and one copy of **Respondents/Appellants' Motion to Seal** in the above referenced matter. I have also enclosed a sealed copy of the document I wish to file under seal. I would greatly appreciate you filing the original and returning a clocked copy to me in the enclosed envelope. I have also enclosed my firm's \$25.00 check for the filing fee.

By copy of this letter I am serving a copy of the Motion upon all attorneys of record. Thank you for your assistance. Should you have any questions, please do not hesitate to contact this office.

With kindest regards, I remain,

Very truly yours,



Brooke Hurt

Enclosures

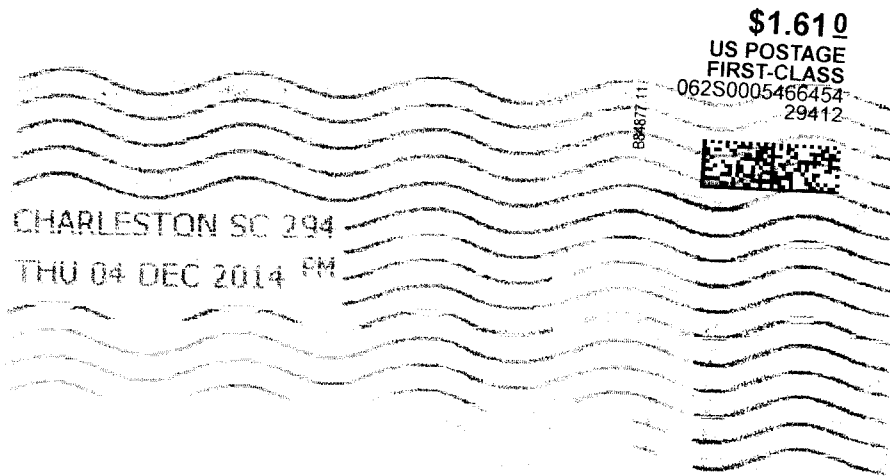
cc: L. Morgan Martin  
Cristin Uricchio

Andrew Lindemann  
Jack B. McCutcheon, Jr.

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Ms. Jenny Abbott Kitchings, Clerk of

the South Carolina  
Court of Appeals  
P.O. Box 11629  
Columbia, South Carolina 29211

