

The South Carolina Court of Appeals

Charles Benjamin "Ben" Dickerson and Gale M.
Dickerson, Respondents,

v.

TLC Corporate; TLC The Laser Center (Institute), Inc.,
f/k/a TLC The Laser Center (Piedmont), Inc., TLC
Physicians; Jonathan Woolfson, M.D., Jeffery Machat,
M.D., Derek P. Van Veen, O.D., Cynthia Wike Yeager,
O.D., John Potter, M.D., and David Kohler, O.D.,
Defendants,

Of whom, Derek P. Van Veen, O.D. is the Appellant,

And

Michael "Chad" Luce, Respondent,

v.

TLC Corporate; TLC The Laser Center (Institute), Inc.,
f/k/a TLC The Laser Center (Piedmont), Inc., TLC
Physicians; Jonathan Woolfson, M.D., Derek P. Van
Veen, O.D., Cynthia Wike Yeager, O.D., and John
Potter, M.D. Defendants,

Of whom, Derek P. Van Veen, O.D. is the Appellant.

Appellate Case No. 2016-000583

ORDER

The parties have filed a joint motion requesting that this court (1) seal the record on appeal, (2) allow Appellant to submit a portion of the record on appeal on a CD, and (3) grant an extension of time for serving the record on appeal.

As to the request to seal, 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. at 10, 630 S.E.2d at 469. For guidance, we look to Rule 41.1(b), SCRCP, which requires a party asking to seal a record to identify, with specificity, the documents or portions of documents for which sealing is considered necessary, to include a non-confidential description of the documents, and to provide the Court a separately sealed attachment labeled "Confidential Information to be submitted to Court in Connection with the Motion to Seal." *See* Rule 41.1, SCRCP, "Note" (stating "Rule 41.1 was enacted to set forth with clarity the fact that the courts of this State are presumed to be open and to set forth with particularity when documents and settlement agreements, submitted to a court for approval, may be sealed."). 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:

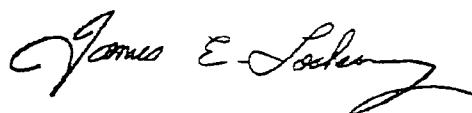
(1) ensuring the parties' right to a fair trial or hearing; (2) the need for witness cooperation; (3) the reliance of the parties upon expectations of confidentiality of the proceeding; (4) the public or professional significance of the proceeding; (5) the perceived harm to the parties from disclosure; (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.

When ruling on a motion to seal, the Court must 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).

Here, the parties have failed to address the factors enumerated in Rule 41.1, SCRCP, and *Ex parte Capital U-Drive-It, Inc.* Furthermore, the parties have not shown to this court why alternatives other than sealing the documents, such as redacting the medical records, are not available to protect legitimate private interests. *See* Rule 41.1, SCRCP. Accordingly, the request to seal the record on appeal is denied.

The request to file a portion of the record on appeal on a CD is also denied. Because of the record on appeal will be voluminous, we reduce the copy requirement set forth in Rule 210(b), SCACR, and Appellant shall file only nine copies of the record on appeal.

The request for an extension is granted. The record on appeal shall be served within thirty days of this order.



FOR THE COURT

Columbia, South Carolina

FILED

November 9, 2016

cc:

Bradford William Cranshaw, Esquire
Trevor Marc Hughey, Esquire
James Walter Fayssoux, Jr., Esquire
Paul S. Landis, Esquire
Douglas F. Patrick, Esquire
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