



# The South Carolina Court of Appeals

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September 03, 2020

Terry Capone  
130 Summerlea Drive  
Columbia SC 29203

Re: Terry Capone v. City of Columbia (2)  
Appellate Case No. 2019-000369

Dear Mr. Capone:

Enclosed is the order of the Court. The record on appeal must be served and a proof of service filed within thirty days of the date of the order.

Very truly yours,

A handwritten signature in blue ink, which appears to read "Jy A. Kitchings".

CLERK

cc: Cynthia C. Dooley, Esquire  
Carmelo Barone Sammataro, Esquire

# The South Carolina Court of Appeals

Terry Capone, Appellant,

v.

City of Columbia, Employer, and Companion Third Party  
Administrator, LLC, Carrier, Respondents.

Appellate Case No. 2019-000369

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## ORDER

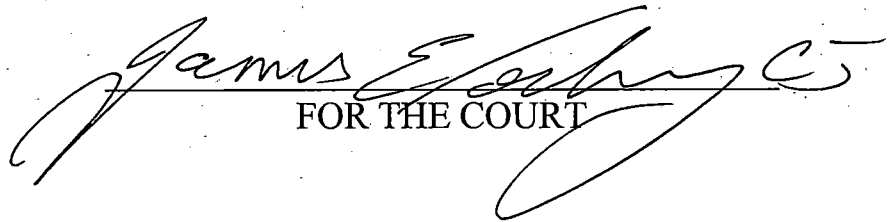
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Appellant has filed a motion to seal several matters in this case. Although there is no provision in the South Carolina Appellate Court Rules for sealing records in the appellate court, we have the inherent power to control our own records. *See Ex parte Capital U-Drive-It, Inc.*, 369 S.C. 1, 12, 630 S.E.2d 464, 470 (2006). In *Ex parte Capital U-Drive-It*, the Supreme Court of South Carolina analyzed Rule 41.1(b), SCRCP, in deciding whether to seal or unseal a court record. 369 S.C. at 12, 630 S.E.2d at 470. Rule 41.1 requires a motion to seal to identify, with specificity, the documents or portions of documents for which sealing is considered necessary and to contain a non-confidential description of the documents. 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 Supreme Court of South Carolina has held 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, Appellant's motion to seal is denied.

  
FOR THE COURT

Columbia, South Carolina

cc:

Terry Capone

Cynthia C. Dooley, Esquire

Carmelo Barone Sammataro, Esquire

**FILED**  
**Sep 03 2020**