

The South Carolina Court of Appeals

Jo Ann Blackwell, Michelene Brooks, and Samuel H. Owens, Jr., individually and on behalf of all others similarly situated, Respondents,

v.

Mary Black Health System, LLC, d/b/a Mary Black Memorial Hospital; CHSPSC, LLC; and Professional Account Services, Inc., Appellants.

Appellate Case No. 2020-001613

ORDER

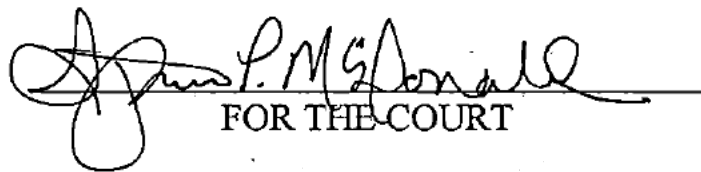
Appellants move to file "The Hospital Services Agreement" between Appellant and Cigna (Cigna Agreement) and "The Participating Hospital Agreement" between Appellant and MedCost (MedCost Agreement) under seal. Although both parties consented to filing the aforementioned documents under seal in the circuit court, Respondent now opposes the motion to seal the MedCost Agreement, arguing it is not proper for consideration by this Court because the circuit court "declined to consider" it below. However, the circuit court explicitly stated in its December 8, 2020 order that it considered both agreements in ruling on the motion to compel arbitration. Therefore, both agreements are proper for consideration by this Court. *See* Rule 210 (c) (providing the record on appeal shall include exhibits and documents presented to the court below). Although there is no provision in the South Carolina Appellate Court Rules for sealing records in the appellate court, the court has the power to control its 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), SCRCF, 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. When ruling on a motion to seal, 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 of Appellants' motion and the relevant factors, the motion to seal is granted.


FOR THE COURT

Columbia, South Carolina

FILED
Oct 13 2021

cc:

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