

The South Carolina Court of Appeals

Arthur M. Field, Respondent/Appellant,

v.

Henry McMaster, Attorney General,
Appellant/Respondent.

Appellate Case No. 2011-199466

ORDER

Appellant/Respondent has filed a motion to file exhibits under seal and to stay any action pertaining to exhibits pending the resolution of this motion. No return was filed.

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.

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, Appellant/Respondent's motion to file the exhibits under seal is granted. This court finds that, in this particular case, Appellant/Respondent's interest in keeping the exhibits sealed outweighs the presumption of access to court records. Because only the exhibits, and not the entire record, will be sealed, this court believes this is the least drastic alternative to affording adequate protection. This court also notes the exhibits were sealed below by order of Judge Simmons, dated September 15, 2011.


FOR THE COURT

Columbia, South Carolina

cc:

William H. Davidson, II
Kenneth P. Woodington
Arthur M. Field

FILED

5/2/13 JCC