

United States District Court
Middle District of Florida
Jacksonville Division

WINN-DIXIE STORES, INC.,

Plaintiff,

v.

NOS. 3:15-cv-1143-J-39PDB
3:18-mc-14-J-39PDB

SOUTHEAST MILK, INC., ETC.,

Defendants.

Order

Before the Court are seven motions to seal exhibits relating to motions for summary judgment, to exclude expert opinions, and to strike a defense. Docs. 262, 265, 266, 268, 274, 275, 278. An overview of the case and the standards for sealing are in earlier filings and not repeated here. *See* Docs. 34, 74, 254.

For receipt by **October 25, 2019**, the plaintiff must provide the clerk's office hardcopy versions of the following exhibits. Upon receipt, the clerk must file the exhibits on the public docket, replacing the placeholders with the exhibits. The defendants designated the documents as confidential or highly confidential but do not oppose filing them on the public docket. Doc. 279.

Doc. No.	Ex.	Associated Filing
Doc. 276-23	22	Plaintiff's Response in Opposition to Defendants' MSJ
Doc. 276-24	23	Plaintiff's Response in Opposition to Defendants' MSJ
Doc. 276-25	24	Plaintiff's Response in Opposition to Defendants' MSJ
Doc. 276-26	25	Plaintiff's Response in Opposition to Defendants' MSJ
Doc. 276-27	26	Plaintiff's Response in Opposition to Defendants' MSJ
Doc. 276-32	31	Plaintiff's Response in Opposition to Defendants' MSJ
Doc. 276-37	36	Plaintiff's Response in Opposition to Defendants' MSJ
Doc. 276-41	40	Plaintiff's Response in Opposition to Defendants' MSJ
Doc. 276-42	41	Plaintiff's Response in Opposition to Defendants' MSJ
Doc. 277-9	8	Plaintiff's Response in Opposition to Defendants' Motion to Strike or Exclude

Doc. 277-12	11	Plaintiff's Response in Opposition to Defendants' Motion to Strike or Exclude
Doc. 277-17	16	Plaintiff's Response in Opposition to Defendants' Motion to Strike or Exclude
Doc. 277-20	19	Plaintiff's Response in Opposition to Defendants' Motion to Strike or Exclude
Doc. 277-21	20	Plaintiff's Response in Opposition to Defendants' Motion to Strike or Exclude
Doc. 277-23	22	Plaintiff's Response in Opposition to Defendants' Motion to Strike or Exclude

For receipt by **October 25, 2019**, the plaintiff must provide the clerk's office hardcopy versions of the following exhibits to be temporarily placed under seal. The Court will direct the clerk to file the exhibits on the public docket unless, by **November 1, 2019**, the defendants file a motion and memorandum of law showing the presumption of public access to the exhibits is overcome.

Doc. No.	Ex.	Associated Filing
Doc. 263-10	9	Plaintiff's Motion to Exclude or Limit Opinions of Defendants' Experts
Doc. 263-21	20	Plaintiff's Motion to Exclude or Limit Opinions of Defendants' Experts

For receipt by **October 25, 2019**, the defendants must provide the clerk's office hardcopy versions of the following exhibits in both redacted and unredacted form. Upon receipt, the clerk must file the redacted versions on the public docket, replacing the placeholders with the exhibits. The clerk must file the unredacted versions under seal. For the reasons stated in the motions, Docs. 262, 265, 274, the defendants have overcome the presumption of public access to the redacted information.

Doc. No.	Ex.	Associated Filing
Doc. 261-21	U	Declaration of Nathan P. Eimer
Doc. 264-32	31	Defendants' MSJ on Antitrust Immunity, Liability, and Standard of Review
Doc. 264-33	32	Defendants' MSJ on Antitrust Immunity, Liability, and Standard of Review
Doc. 264-34	33	Defendants' MSJ on Antitrust Immunity, Liability, and Standard of Review
Doc. 264-39	38	Defendants' MSJ on Antitrust Immunity, Liability, and Standard of Review
Doc. 264-40	39	Defendants' MSJ on Antitrust Immunity, Liability, and Standard of Review
Doc. 264-41	40	Defendants' MSJ on Antitrust Immunity, Liability, and Standard of Review
Doc. 264-42	41	Defendants' MSJ on Antitrust Immunity, Liability, and Standard of Review
Doc. 264-44	43	Defendants' MSJ on Antitrust Immunity, Liability, and Standard of Review
Doc. 273-3	2	Defendants' Response in Opposition to Plaintiff's Partial MSJ

For receipt by **October 25, 2019**, the defendants must provide the clerk's office hardcopy versions of the following exhibits. The clerk must file the exhibits under seal. For the reasons stated in the motion, Doc. 265, the defendants have overcome the presumption of public access to the redacted information.

Doc. No.	Ex.	Associated Filing
Doc. 264-22	21	Defendants' MSJ on Antitrust Immunity, Liability, and Standard of Review
Doc. 264-23	22	Defendants' MSJ on Antitrust Immunity, Liability, and Standard of Review
Doc. 264-24	23	Defendants' MSJ on Antitrust Immunity, Liability, and Standard of Review
Doc. 264-25	24	Defendants' MSJ on Antitrust Immunity, Liability, and Standard of Review
Doc. 264-26	25	Defendants' MSJ on Antitrust Immunity, Liability, and Standard of Review
Doc. 264-27	26	Defendants' MSJ on Antitrust Immunity, Liability, and Standard of Review
Doc. 264-28	27	Defendants' MSJ on Antitrust Immunity, Liability, and Standard of Review
Doc. 264-43	42	Defendants' MSJ on Antitrust Immunity, Liability, and Standard of Review

For receipt by **October 25, 2019**, the defendants must provide the clerk's office a hardcopy version of the following exhibit. Upon receipt, the clerk must file the exhibit on the public docket, replacing the placeholder with the exhibit. The defendants provide no good reason to seal the exhibit, and the exhibit already has been filed on the public docket without opposition. *See* Doc. 256-6.

Doc. No.	Ex.	Associated Filing
Doc. 261-8	H	Declaration of Nathan P. Eimer

For receipt by **October 25, 2019**, the defendants must provide the clerk's office hardcopy versions of the following deposition transcripts (and any exhibits to the transcripts) in their entirety. Upon receipt, the clerk must file them under seal. The parts of the deposition transcripts (and any exhibits to the transcripts) pertinent to the pending motions and responses are already on the public docket.

Deposition	Date(s)
Scott Brown	November 7, 2014
John Connor	May 13, 2015; ¹ February 13, 2018; June 22, 2018
Calvin Covington	December 6, 2017
Edward Gallagher	May 6, 2015
Jerome Kozak	February 5, 2015
Graham Leary	March 6, 2018
Andrew Novakovic	March 16, 2018
Bryan Ricchetti	March 22, 2018
Richard Stammer	January 30, 2015

¹The exhibit list for the defendants' summary-judgment motion and the transcript excerpt show May 13, 2015, as the date of Connor's first deposition. *See* Doc. 264-1 (exhibit list), Doc. 264-6 (excerpt). In the motion to seal, the defendants reference May 6, 2016. Doc. 266 at 4. This may be an error. But if the defendants also rely on a transcript of a May 6, 2016, deposition of Connor, they must file under seal the deposition transcript (and any exhibits to the transcript) in their entirety.

Thomas Wegner	January 22, 2015
John Wilson	January 8–9, 2015
Joseph Wright ²	January 12, 2017

For receipt by **October 25, 2019**, the plaintiff must provide the clerk’s office a hardcopy version of the following deposition transcript (and any exhibits to the transcript) in its entirety. The clerk must file the deposition transcript (and any exhibits to the transcript) under seal. The parts of the deposition transcript (and any exhibits to the transcript) pertinent to the plaintiff’s response in opposition to the defendants’ motion to strike or exclude opinions of the plaintiff’s expert are already on the public docket.

Deposition	Date
Donald Bernos	May 11, 2018

For the documents or redacted information to be sealed under this order, neither side has shown that the documents or redacted information—much of which may become obsolete over time—should be sealed indefinitely. The duration of the seal is three years from the date of this order absent another order shortening or extending the time. A party may move to extend that period before it ends. The parties should know that documents or redacted information may be disclosed earlier in an order or at the trial.

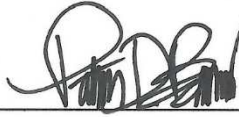
Thus, the Court:

- (1) **grants in part** Dairy Farmers’ motion to seal, Doc. 262;
- (2) **grants in part** the defendants’ motion to seal, Doc. 265;
- (3) **grants in part** the defendants’ motions to seal, Docs. 266, 275;
- (4) **denies** without prejudice the plaintiff’s motion to seal, Doc. 268;

²The defendants do not include Wright’s deposition transcripts in their motions to seal but rely on an excerpt of and exhibit from his deposition in their response in opposition to the plaintiff’s motion for partial summary judgment. *See* Doc. 273-1 (defendants’ exhibit list referencing excerpts filed by the plaintiff [Doc. 267-36, Doc. 267-84]).

- (5) **grants in part** the defendants' motion to seal, Doc. 274; and
- (6) **denies** the plaintiff's motion to seal, Doc. 278.

Ordered in Jacksonville, Florida, on October 21, 2019.



PATRICIA D. BARKSDALE
United States Magistrate Judge

c: Counsel of record