

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH
CAROLINA CHARLOTTE DIVISION
CIVIL ACTION NO.: 3:15-CV-489-RJC-DCK**

SOUTHPARK MORRISON, LLC,

Plaintiff,

v.

**FERNCROFT MORRISON LLC; CAROLINA
PROPERTY ACQUISITIONS, LLC; and
SOUTHERN PROPERTY ACQUISITIONS,
LLC,**

Defendants.

**SEAL ORDER AND
PROTECTIVE ORDER**

THIS MATTER COMES BEFORE THE COURT upon the joint Motion of Plaintiff Southpark Morrison, LLC (“Plaintiff”) and Defendants Ferncroft Morrison LLC, Carolina Property Acquisitions, LLC, and Southern Property Acquisitions, LLC (“Defendants”), who jointly request that the Court enter this Seal Order and Protective Order to ensure the confidentiality of certain documents that will be produced for the Court’s consideration in determining Defendants’ pending monetary damages claim; and

WHEREAS, this action involves the parties’ competing claims for, inter alia, declaratory relief resolving the controversy between the parties concerning anti-assignment language in the operative commercial lease agreement; and

WHEREAS, on August 25, 2016 this Court entered an Order denying Plaintiff’s Motion for Judgment on the Pleadings and granting, in part, Defendants’ Motion for Judgment on the Pleadings, entitling Defendants to immediate and exclusive possession of the premises at issue; and

WHEREAS, the aforementioned Order directs the parties to submit further briefing on the Court's calculation of Defendants' damages and whether an evidentiary hearing should be conducted; and

WHEREAS, Defendants intend to serve on Plaintiffs and submit for the Court's consideration certain documents containing sensitive and confidential commercial information that Defendants contend are necessary to establish and quantify their damages, and the parties stipulate and agree that such documents and information should remain confidential;

It is now therefore ORDERED, pursuant to LCvR6.1 of the Local Rules of Civil Procedure and Rule 26(c) of the Federal Rules of Civil Procedure, and based on the parties' stipulation and upon a showing of good cause, that the Joint Motion is hereby **GRANTED** as follows:

1. The purpose of this Seal Order and Protective Order ("Order") is to limit disclosure of documents maintained by Defendants containing commercial information of a confidential, proprietary, and financial nature. All documents produced by Defendants, including any exhibits attached thereto, relating to Defendants' damages claim and that are designated as "confidential" shall be deemed Confidential Documents, and except as otherwise provided herein shall not be disseminated to third parties or entities. For purposes of this Order, the term "document" means all written, recorded, and graphic material, whether produced or created by a party or another person, whether produced pursuant to the Federal Rules of Civil Procedure, agreement, or otherwise.

2. Either party in this action may utilize any of the Confidential Documents or information taken therefrom in pleadings, motions, affidavits, briefs, and other papers filed or submitted to this Court, and at all court proceedings so long as the confidentiality of the

Confidential Document or information taken therefrom is upheld. Confidential Documents may be disclosed to the following:

- a. A party to this action and his or her counsel;
- b. Partners, associates, secretaries, paralegal, assistants, employees, and agents of such counsel assisting in the preparation, trial, or appeal of this action;
- c. An officer, director, or employee of a party deemed necessary by counsel to aid in the prosecution, defense, or settlement of this action;
- d. A judicial officer of the United States District Court for the Western District of North Carolina, Charlotte, Division, hearing this action, including all appellate courts and attendant clerks; court reporters; and other court staff as each court may deem appropriate;
- e. Those persons and entities to whom disclosure is directed pursuant to law or court order; and
- f. Independent consultants and experts, and their employees and agents, retained by a party or counsel for the purpose of assisting in the preparation, trial, or appeal of this action.

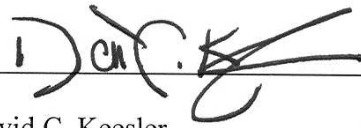
3. The provisions of this Order shall survive the conclusion of this case and the parties and their respective counsel shall maintain the confidentiality of all Confidential Documents following the conclusion of litigation in this action, including any appeals therefrom. Confidential Documents may be retained by counsel and any other permissible custodian identified herein following the conclusion of this action. However, such Confidential Documents shall be afforded confidential treatment for as long as they are retained by counsel or any other custodian.

4. All Confidential Documents filed or submitted by a party shall be filed with the Court under seal consistent with LCvR 6.1(G) of the Local Rules of Civil Procedure and Section II(A)(11) of the Administrative Procedures Governing Filing and Service by Electronic Means for the United States District Court for the Western District of North Carolina.

5. This Order shall be binding upon all parties to this action and signatories hereto, their respective agents, representatives, executors, and counsel.

SO ORDERED.

Signed: September 6, 2016



David C. Keesler
United States Magistrate Judge

