

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
STATESVILLE DIVISION  
CASE NO. 5:18-cv-075-KDB-DCK**

**BENJAMIN REETZ,** )  
 )  
 )  
 **Plaintiff,** )  
 )  
 )  
 **v.** )  
 )  
 )  
 **LOWE’S COMPANIES, INC.,** )  
 **ADMINISTRATIVE COMMITTEE OF** )  
 **LOWE’S COMPANIES, INC., and AON** )  
 **HEWITT INVESTMENT CONSULTING, INC.** )  
 )  
 **Defendants.** )

**ORDER**

**THIS MATTER IS BEFORE THE COURT** on “Defendant Aon Hewitt Investment Consulting’s Motion For Leave To Permanently Seal Documents Filed Provisionally Under Seal In Connection With The Parties’ Summary Judgment Briefing” (Document No. 197) filed February 11, 2021. This motion has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b), and immediate review is appropriate. Having carefully considered the motion and the record, and noting the motion is not opposed, the undersigned will grant the motion.

A party who seeks to seal any pleading must comply with the Local Rules of this Court. Local Civil Rule(“LCvR”) 6.1 provides in relevant part as follows:

**LCvR. 6.1 SEALED FILINGS AND PUBLIC ACCESS.**

**(a) Scope of Rule.** To further openness in civil case proceedings, there is a presumption under applicable common law and the First Amendment that materials filed in this Court will be filed unsealed. This Rule governs any party’s request to seal, or otherwise restrict public access to, any materials filed with the Court or used in connection with judicial decision- making. As used in this Rule, “materials” includes pleadings and documents of any nature and in any medium or format.

(b) **Filing under Seal.** No materials may be filed under seal except by Court order, pursuant to a statute, or in accordance with a previously entered Rule 26(e) protective order.

(c) **Motion to Seal or Otherwise Restrict Public Access.** A party's request to file materials under seal must be made by formal motion, separate from the motion or other pleading sought to be sealed, pursuant to LCvR 7.1. Such motion must be filed electronically under the designation "Motion to Seal." The motion must set forth:

- (1) A non-confidential description of the material sought to be sealed;
- (2) A statement indicating why sealing is necessary and why there are no alternatives to filing under seal;
- (3) Unless permanent sealing is sought, a statement indicating how long the party seeks to have the material maintained under seal and how the matter is to be handled upon unsealing; and
- (4) Supporting statutes, case law, or other authority.

Local Rule 6.1. It appears that the requirements of Local Rule 6.1(c)(1) through (4) have been adequately met.

In support of sealing, Defendant includes the following authority:

In the Fourth Circuit, a district court can seal "judicial records and documents" when "the public's right of access is outweighed by competing interests." *Ashcraft v. Conoco, Inc.*, 218 F.3d 288, 302 (4th Cir. 2000). "The Fourth Circuit applies the First Amendment right of access to documents submitted in support of summary judgment motions in civil cases." *Jones v. Lowe's Cos., Inc.*, 402 F. Supp. 3d 266, 277 (W.D.N.C. 2019) (Bell, J.) (citing *Rushford v. New Yorker Magazine, Inc.*, 846 F.2d 249, 253 (4th Cir. 1988)). Courts have routinely recognized that certain private interests, such as "confidential and proprietary business information," are sufficient to overcome "both the First Amendment and common law presumptions of access." *Accreditation Comm'n for Health Care, Inc. v. NextLOGiK, Inc.*, No. 5:20-CV-46-M, 2020 WL 2543787, at \*2 (E.D.N.C. May 19, 2020); *Pittston Co. v. United States*, 368 F.3d 385, 406 (4th Cir. 2004) (upholding a district court's denial of a motion to unseal confidential and proprietary business information previously covered by a protective order); *Jones*, 402 F. Supp. 3d

at 293 (Bell, J.) (granting motion to seal documents under First Amendment standard where documents contain “confidential business and financial information and [] the risk of harm to [the movant] posed by its disclosure outweighs public interest in access”)

(Document No. 197, pp. 4-5).

By the instant motion, Defendant argues, *inter alia*, that

all of the aforementioned documents should be filed under seal. AHIC has publicly filed redacted versions of all documents where redaction is possible. Confidential information appears throughout the remaining documents, rendering redaction impossible and leaving no alternatives to filing these entire exhibits entirely under seal. As described below, AHIC would suffer harm from the disclosure of its confidential information, which outweighs any public interest in the information and necessitates filing the documents under seal.

(Document No. 197, p. 5).

The undersigned finds Defendant’s arguments and legal authority to be persuasive. However, noting that the time for public response has not run to this motion, the Court will consider any objection to this Order from non-parties as an objection to the motion, requiring no additional burden for any non-party under the Federal Rules of Civil Procedure. See Local Rule 6.1(e).

**IT IS, THEREFORE, ORDERED** that “Defendant Aon Hewitt Investment Consulting’s Motion For Leave To Permanently Seal Documents Filed Provisionally Under Seal In Connection With The Parties’ Summary Judgment Briefing” (Document No. 197) is **GRANTED**.

The Court grants leave to **SEAL** the parties’ respective summary judgment, opposition, reply briefs and exhibits as follows:

- Memorandum of Law in Support of Defendant Aon Hewitt Investment Consulting, Inc.’s Motion for Summary Judgment (ECF No. 140-1)
- Lowe’s Memorandum in Support of Their Motion for Summary Judgment (ECF No. 141)
- Memorandum of Law in Support of Plaintiff’s Motion for Partial Summary Judgment (ECF No. 136)

- Defendant Aon Hewitt Investment Consulting, Inc.’s Memorandum of Law in Opposition to Plaintiffs' Motion for Partial Summary Judgment (ECF No. 162)
- Lowe’s Opposition to Plaintiff’s Motion for Summary Judgment (ECF No. 172)
- Plaintiff’s Opposition to Defendant AHIC’s Motion for Summary Judgment (ECF No. 161)
- Plaintiff’s Memorandum of Law in Opposition to Lowe’s Motion for Summary Judgment (ECF No. 168)
- Reply Memorandum of Law in Further Support of Defendant Aon Hewitt Investment Consulting, Inc.’s Motion for Summary Judgment (ECF No. 188)
- Lowe’s Reply Brief in Support of Motion for Summary Judgment (ECF No. 191)
- Reply Memorandum of Law in Support of Plaintiff’s Motion for Partial Summary Judgment (ECF No. 186)
- Rice Decl. Ex. 1 (ECF No. 148-1)
- Rice Decl. Ex. 2 (ECF No. 148-2)
- Rice Decl. Ex. 5 (ECF No. 148-5)
- Rice Decl. Ex. 7 (ECF No. 148-7)
- Rice Decl. Ex. 9 (ECF No. 148-9)
- Rice Decl. Ex. 10 (ECF No. 148-10)
- Rice Decl. Ex. 11 (ECF No. 148-11)
- Rice Decl. Ex. 12 (ECF No. 148-12)
- Rice Decl. Ex. 14 (ECF No. 148-14)
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- Rice Decl. Ex. 36 (ECF No. 148-36)
- Rice Decl. Ex. 37 (ECF No. 148-37)
- Rice Decl. Ex. 38 (ECF No. 148-38)
- Rice Decl. Ex. 41 (ECF No. 148-41)
- Rice Decl. Ex. 42 (ECF No. 148-42)
- Rice Decl. Ex. 43 (ECF No. 148-43)
- Rice Decl. Ex. 44 (ECF No. 148-44)
- Declaration of Brian Abshire in Support of Defendant Aon Hewitt Investment Consulting, Inc.’s Motion for Summary Judgment (ECF No. 149)

- Abshire Decl. Ex. C (ECF No. 149-3)
- Abshire Decl. Ex. D (ECF No. 149-4)
- Abshire Decl. Ex. F (ECF No. 149-6)
- Abshire Decl. Ex. G (ECF No. 149-7)
- Abshire Decl. Ex. H (ECF No. 149-8)
- Abshire Decl. Ex. I (ECF No. 149-9)
- Abshire Decl. Ex. M (ECF No. 149-13)
- Abshire Decl. Ex. N (ECF No. 149-14)
- Abshire Decl. Ex. P (ECF No. 149-16)
- Declaration of Matthew R. Clink in Support of Defendant Aon Hewitt Investment Consulting, Inc.'s Motion for Summary Judgment (ECF No. 150)
- Clink Decl. Ex. A (ECF No. 150-1)
- Clink Decl. Ex. B (ECF No. 150-2)
- Clink Decl. Ex. C (ECF No. 150-3)
- Clink Decl. Ex. D (ECF No. 150-4)
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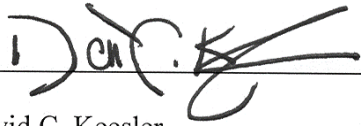
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- Aronsson Decl. Ex. 1 (ECF No. 188-1)
- Aronsson Decl. Ex. 2 (ECF No. 188-2)
- Lowe's Reply Ex. 80 (ECF No. 191-4)

**SO ORDERED.**

Signed: February 26, 2021



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David C. Keesler  
United States Magistrate Judge

