

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION**

CAPE FEAR PUBLIC UTILITY)
 AUTHORITY, BRUNSWICK COUNTY,)
 LOWER CAPE FEAR WATER & SEWER)
 AUTHORITY, and TOWN OF)
 WRIGHTSVILLE BEACH,)
)
 Plaintiffs,)
)
 v.)
)
 THE CHEMOURS COMPANY FC, LLC,)
 E. I. DU PONT DE NEMOURS AND)
 COMPANY, and THE CHEMOURS)
 COMPANY,)
)
)
 Defendants.)

Case No. 7:17-CV-00195-D
 Case No. 7:17-CV-00209-D

**DEFENDANTS’ MOTION TO
MAINTAIN MATERIALS UNDER
SEAL**

Fed. R. Civ. P. 5.2
 Local Civil Rules 7.1, 79.2

Pursuant to Federal Rule of Civil Procedure 5.2, Local Civil Rules 7.1 and 79.2, and section V.G of the Electronic Case Filing Administrative Policies and Procedures Manual (the “CM/ECF Policy Manual”), Defendants hereby move for leave to maintain under seal several filings made by Plaintiff Cape Fear Public Utility Authority, Brunswick County, Lower Cape Fear Water and Sewer Authority, and Town of Wrightsville Beach (collectively, “Plaintiffs”) on January 17, 2025, including [D.E. 351, 352, 353, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 371, 372, 373, 374, 375, 376, 377, 379, 381, 383, 385, 386, 387, 388, 390]; all as set forth in Plaintiffs’ related Notices of Provisionally Sealed Filings [D.E. 395 and D.E. 407 (the “Notices”), as well as Defendants’ Statement in Opposition to Plaintiffs’ Joint Statement of Material Facts under Local Rule 56.1(a)(2) [D.E. 456]. Defendants also respectfully seek leave to maintain under seal Exhibit I to Defendants’ Memorandum of Law in Support of Their Motion to Withdraw or Amend Requests for Admission [D.E. 453]. In support of this motion, Defendants show the Court the following:

1. On January 17, 2025, Plaintiffs jointly filed a Notice of Provisionally Sealed Filing [DE 395] in which they notified the Court and Defendants that they were filing provisionally under seal multiple PDFs.

2. On January 17, 2025, Plaintiffs Brunswick County, Lower Cape Fear Water and Sewer Authority, and Town of Wrightsville Beach also filed a separate Notice of Provisionally Sealed Filing [DE 407] in which they notified the Court and Defendants that they were filing provisionally under seal 3 additional PDFs.

3. Plaintiffs filed these materials (and other materials in connection with their motions for summary judgment) in derogation of section V.E.1.d. of the CM/ECF Policy Manual, which provides “Each exhibit must be scanned in text-searchable format as a separate PDF and docketed as a separate attachment. The exhibits must not be scanned together into one PDF and docketed as a single attachment.” Instead, Plaintiffs filed the materials grouped together into PDFs. Although Plaintiffs sought different relief from Policy Manual filing requirements by a Joint Motion filed on January 15, 2025, [D.E. 345]; they did not seek leave to ignore this rule. And, in any event, the Court denied the relief from Policy Manual filing requirements. [D.E. 346]. Combined, the PDFs, which include the documents that the Plaintiffs filed provisionally under seal, comprise over 575 separate documents that total nearly 21,000 pages.

4. By this motion, made pursuant to Federal Rule of Civil Procedure 5.2, Local Civil Rules 7.1 and 79.2, and section V.G of the CM/ECF Policy Manual, Defendants respectfully request that the Court maintain under seal the documents identified more particularly in their accompanying memorandum of law. Defendants also respectfully request that the Court maintain under seal Defendants’ Statement in Opposition to Plaintiffs’ Joint Statement of Material Facts under Local Rule 56.1(a)(2) [D.E. 456] because it recites the same confidential information from

the other materials. The reasons for sealing are set forth more particularly in the Defendants' accompanying memorandum of law.

5. Defendants have conferred with the Plaintiffs about this motion. Plaintiffs do not consent to the relief requested in this motion.

6. A proposed Order granting the relief requested in this motion is being provided herewith.

WHEREFORE, for the reasons set forth in Defendants' memorandum of law submitted in support hereof, Defendants respectfully request that the Court grant their request to maintain under seal certain of the above-cited materials appearing on the docket at [D.E. 351, 352, 353, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 371, 372, 373, 374, 375, 376, 377, 379, 381, 383, 385, 386, 387, 388, 390, 453, 456], and provide Defendants all such other and furth relief as the Court deems just and proper.

Date: February 28, 2025

Respectfully submitted,

/s/ Thomas H. Segars

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Defendants.)	

[PROPOSED] ORDER GRANTING MOTION TO SEAL

For good cause shown, and pursuant to Local Civil Rule 79.2, the Court has determined that the Motion to Maintain Materials Under Seal [D.E. 465] should be and hereby is GRANTED.

The motion has been pending, giving the public adequate notice of and an opportunity to object to the proposed sealing. *Rushford v. New Yorker Magazine, Inc.*, 846 F.2d 249, 253-54 (4th Cir. 1988). To date, no one has objected to the sealing of the materials at issue.

The Court FINDS and/or CONCLUDES that some of the proposed sealed materials—namely those that are material to Plaintiffs’ motions for summary judgment and those being filed by Defendants in response—are judicial documents, subject to both the common law and the First Amendment presumption of access because the documents “play a role in the adjudicative process.” *Id.*

The Court FINDS and/or CONCLUDES that the remainder of the proposed sealed materials—namely those that are immaterial to Plaintiffs’ motions for summary judgment and

those being filed by Defendants in response—are subject to only the common law presumption of access.

Nevertheless, under even the more rigorous First Amendment test, the materials should be sealed.

For the reasons set forth in the motion itself [D.E. 465] and supporting memorandum of law [D.E. 466] with respect to the documents at issue, the Court FINDS and/or CONCLUDES that the reasons for sealing the materials are sufficient to overcome the common law and the First Amendment presumption of access. More particularly, the documents contain sensitive business information that is not generally available to the public. The publication of these materials, which would make them available to competitors of Defendants, could result in competitive harm to Defendants. The Court further FINDS and/or CONCLUDES that the relief sought is narrowly tailored, making sealing appropriate.

Accordingly, IT IS HEREBY ORDERED that the following materials shall be maintained UNDER SEAL: [D.E. 351, 352, 353, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 371, 372, 373, 374, 375, 376, 377, 379, 381, 383, 385, 386, 387, 388, 390, 453, 456].

SO ORDERED. This ____ day of _____, 2025.

JAMES C. DEVER III
United States District Judge