

Storper v WL Ross & Co. LLC
2018 NY Slip Op 31557(U)
January 23, 2018
Supreme Court, New York County
Docket Number: 656932/2017
Judge: Andrea Masley
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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL PART 48
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DAVID H. STORPER, DAVID WAX, and PAMELA K.
WILSON, derivatively on behalf of WLR RECOVERY
ASSOCIATES II, LLC, WLR RECOVERY
ASSOCIATES III, LLC, AND WLR RECOVERY
ASSOCIATES IV, LLC,

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Plaintiffs,

-against-

Mot. Seq. No.: 002

WL ROSS & CO. LLC, WL ROSS GROUP, LP,
and WILBUR L. ROSS,

Decision and Order

Defendants.
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Masley, J.:

Defendants WL Ross & Co., LLC, WL Ross Group, LP, and Wilbur L. Ross move pursuant to 22 NYCRR § 216.1 (a) to seal certain agreements. These documents were filed under seal as NYSCEF Document Numbers 21, 22, 23, 24, 25, and 26, and provided to the court for in camera review pending argument on the motion on January 22, 2018. While plaintiffs do not oppose the motion, the parties' consent is not sufficient to seal a file (*see Grande Prairie Energy LLC v Alstom Power, Inc.*, 5 Misc 3d 1002(A) [Sup Ct, NY County 2004]).

"[T]he court's business is the people's business."¹ Generally, "there is a broad presumption that the public is entitled to access to judicial proceedings and court records" (*Mosallem v Berenson*, 76 AD3d 345, 348 [1st Dept 2010]). A judicial sealing order should "rest on a sound basis or legitimate need to take judicial action," and less restrictive alternatives to sealing should be employed whenever possible (*Danco Labs v Chemical Works of Gedeon Richter, LTD*, 274 AD2d 1, 8 [1st Dept 2000] [affirming as

¹ Chief Judge David Sentelle, US Court of Appeals, DC Circuit, speaking on behalf of 26-judge Judicial Conference, Scarcella, NYLJ, "Conference Instructs Federal Judges to Limit Sealing of Entire Cases," Sept. 15, 2011 at p. 2, col. 1.

modified a sealing order in an action involving the sale and distribution of an abortion pill based on findings of good cause shown)). "Neither the potential for embarrassment or damage to reputation, nor the general desire for privacy, constitutes good cause to seal court records," (*Mosallem*, 76 AD3d at 351 [discussing sealing documents in case involving former employee's allegations of bid-rigging and payment of kickbacks against an advertising firm]), and prejudice to reputation alone is insufficient to seal a file (see *Liapakis v Sullivan*, 290 AD2d 393 [1st Dept 2002] [finding public interest clearly outweighed possible harm to reputations resulting from law partner's allegations of former partners' criminal and unethical conduct]).

22 NYCRR § 202.5 of the Uniform Rules for Trial Courts, which requires certain redactions in electronically-filed documents, is also instructive. Rule 202.5 demonstrates the principle that the courts are open to the public, and information filed in court proceedings shall be publicly available; however, it also reflects the notion that some types of personal information, such as social security numbers, are simply not pertinent to decision making and addresses the pervasiveness of identify theft.

Defendants' motion is granted since personal financial information, trading strategies, and compensation formulas are competitively sensitive, and no public purpose necessitates making such information publicly available (see e.g. *Fefferv Goodkind, Wechsler, Labaton & Rudoff*, 152 Misc 2d 812, 815-816 [Sup Ct, NY County 1991] [sealing documents because "the internal finances of defendant . . . (are) of minimal public interest"], *affd* 183 AD2d 678 [1st Dept 1992]; see also *D'Amour v Ohrenstein & Brown*, 17 Misc 3d 1130(A) [Sup Ct, NY County 2007] ["Defendants ought not to be required to make their private financial information public, merely because they have been named as defendants in a lawsuit, where no substantial public interest

would be furthered by public access to that information.”)).

Here, defendants have established good cause to the extent that they are authorized to redact personal financial information, strategy, and compensation formulas, which constitute sensitive, competitive information, and any documents referencing or incorporating such information shall also be redacted. Additionally, future submissions containing or referencing sensitive business information, as outlined in this decision, shall be redacted prior to being filed publicly in NYSCEF. Defendants shall identify those documents in NYSCEF with an informative caption and note that the electronically-filed version is redacted; for example, “the Second Amended Restated Limited Partnership Agreement of WLR Recovery Fund II, LP, and Relevant Amendment, redacted.”

Pursuant to, and in accordance with, Rule 202.5 and Part 216 of the Uniform Rules for the Trial Courts, having determined that good cause exists for the redacting of certain documents in this action, and the grounds for good cause having been specified, it is now

ORDERED that the motion is granted to the extent that defendants shall redact certain information from NYSECF Doc. Nos. 21, 22, 23, 24, 25, and 26 as directed by this decision, and file them in redacted form within 30 days. Any future submissions containing sensitive business information, as delineated in this decision, shall likewise be redacted. Defendants shall identify each of the redacted documents with an informative caption and note that each document so filed is a redacted version, as explained in this decision.

ORDERED that the County Clerk, upon service on him of a copy of this order, is directed to keep sealed for 30 days NYSCEF Doc. Nos. 21, 22, 23, 24, 25, and 26, and

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to separate these papers and keep them separate from the balance of the file in this action for 30 days, and to thereafter accept these documents in redacted form; and it is further

ORDERED that thereafter, or until further order of the court, the County Clerk shall deny access to the unredacted documents to anyone (other than the staff of the County Clerk or the court) except for counsel of record for any party to this case, a party, and any representative of counsel of record for a party upon presentation to the County Clerk of written authorization from the counsel; and it is further

ORDERED that this order cannot be used to seal or redact any documents or evidence used at trial.

Dated: January 23, 2018

ENTER:


HON. ANDREA MASLEY
Hon. Andrea Masley, JSC

Check one: FINAL DISPOSITION NON-FINAL DISPOSITION

Check if appropriate: DO NOT POST