

**Resort Cayman Holdings, Ltd. v Partnerships & Invs.
LLC**

2020 NY Slip Op 31406(U)

May 15, 2020

Supreme Court, New York County

Docket Number: 651185/2020

Judge: Joel M. Cohen

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. JOEL M. COHEN PART IAS MOTION 3EFM

Justice

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RESORT CAYMAN HOLDINGS, LTD., BOTH ON ITS OWN
BEHALF AND AS ATTORNEY-IN-FACT TO
PARTNERSHIPS & INVESTMENTS LLC,

Plaintiff,

INDEX NO. 651185/2020

MOTION DATE 03/10/2020

MOTION SEQ. NO. 007

- v -

PARTNERSHIPS & INVESTMENTS LLC, NICOLAS
KOGAN, AMERICAS LEADING FINANCE, LLC (NOMINAL
DEFENDANT), CENTERBRIDGE PARTNERS, L.P., CP
CARCO GP, LTD., CP CARCO INTERMEDIATE, LTD., CP
CARCO, LP

Defendant.

DECISION + ORDER ON
MOTION

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The following e-filed documents, listed by NYSCEF document number (Motion 007) 155, 156, 157, 158,
159, 160, 225, 226, 227, 228

were read on this motion to SEAL

In Motion 007, Defendants-Counterclaim Plaintiffs Partnerships & Investments, LLC
("PI"), Americas Leading Finance, LLC ("ALF"), and Nicolás A. Kogan (together,
"Defendants") moved to permanently and temporarily redact approximately a portion of its
Memorandum of Law submitted in connection with Motion 006 as well as 30 paragraphs and
various footnotes contained in their Proposed Consolidated Complaint and Counterclaims (the
"Proposed Pleadings") (see NYSCEF Docs. 150, 152-153). By the parties' May 6, 2020
stipulation (the "Stipulation") (NYSCEF Doc. 225), Defendants limited their request to
permanently seal only portions Paragraphs 66, 67, 86, and Footnotes 6 and 7, of the Proposed

Pleadings (NYSCEF Docs. 226-228 [proposed consolidated complaint, red-line, and counterclaims]).¹

Having reviewed the submissions, Motion 007 is granted as limited by the Stipulation.

Pursuant to § 216.1 (a) of the Uniform Rules for Trial Courts, this Court may seal or redact a filing “upon a written finding of good cause, which shall specify the grounds thereof.” “[T]he court shall consider the interests of the interests of the public as well as of the parties” in determining whether there is good cause (22 NYCRR § 216.1 [a]), and it must balance the risk of privacy concerns stemming from public access to the information against the “compelling public interest in exposure of this information,” if any (*see MBIA Ins. Corp. v Countrywide Home Loans, Inc.*, 2013 WL 450030, *9 [Sup Ct, NY County Jan. 3, 2013]; *see Mosallem v Berenson*, 76 AD3d 345, 348-350 [1st Dept 2010] [noting that “there is a broad presumption that the public is entitled to access to . . . court records”]). The moving party has the burden to set forth compelling circumstances to justify restricting public access and must demonstrate “a sound basis or legitimate need to take judicial action” (*Danco Labs., Ltd. v Chemical Works of Gedeon Richter*, 274 AD2d 1, 6 [1st Dept 2000]).

Defendants have carried their burden to redact Paragraphs 66, 67, and 86, as well as Footnotes 6 and 7. The proposed redactions are narrowly tailored to prevent disclosure of precise financial information and the public’s interest in the particularized information in the paragraphs and footnotes is minimal.

Motion 007 is also granted to the extent that it seeks to temporarily redact numerous other paragraphs and footnotes on the ground that they “*may* contain the [the Plaintiffs’]

¹ As the Plaintiffs in the related action, *Aktiv Assets LLC v Centerbridge Partners, L.P.*, Index No. 653259/2019 (the “Related Action”), PI, ALF, and Kogan seek to redact the same information/documents in the corresponding docket (*see* Related Action, Motion 014).

confidential information” (*see* NYSCEF Doc. 156 [Motion 007 mem.]). While such statements alone are insufficient to warrant permanently redacting that information for good cause under 22 NYCRR § 216.1 (a), Plaintiffs have moved to permanently seal those additional paragraphs and footnotes in Motion 009.² Accordingly, those additional paragraphs and footnotes may remain provisionally sealed/redacted until resolution of Motion 009.

Accordingly, it is

ORDERED that Motion 007 is **granted**; it is further

ORDERED that Paragraphs 66, 67, 86, and Footnotes 6 and 7 (NYSCEF Docs. 226-228) shall be filed in redacted form as set forth in this Decision and Order; it is further

ORDERED that, upon service of a copy of this Order upon the Clerk of the Court, the Clerk shall permit Paragraphs 66, 67, 86, and Footnotes 6 and 7 (NYSCEF Docs. 226-228) to be and remain filed in redacted form wherever they shall appear in connection with this action. Until further Order of the Court, the Clerk of the Court shall deny access to those unredacted documents to anyone other than the staff of the Clerk or the Court, counsel of record for any party to this case, and any party, provided that the Clerk of the Court shall not seal or redact any documents not referenced in this Order, or as otherwise described below, or as set forth in another Order of this Court; it is further

ORDERED that future submissions, made by any party, which contain the subject matter that the Court has authorized to be permanently filed in redacted form by this Order may be filed

² In Motion 009, Plaintiffs seek to permanently redact Paragraphs 56, 58, 59, 93, 118, and 122 of the Counterclaims and Paragraphs 75, 94, and 121 to Exhibit 1 to the Affirmation of Michael B. Carlinsky (the “Carlinsky Affirmation”). Plaintiffs further seek, in Motion 009, to redact portions of the Motion to Consolidate, including Paragraphs 56, 58, 59, 93, 118, 121, 122, 123, 124, and Footnote 9 to Exhibit A, Paragraphs 75 and 94 of Exhibit 2 to the Carlinsky Affirmation, Paragraphs 56, 58, 59, 93, 118, 121, 122, 123, 124, and Footnote 10 of Exhibit B, and Paragraphs 75 and 94 of Exhibit 3 to the Carlinsky Affirmation (*see* NYSCEF Doc. 233).

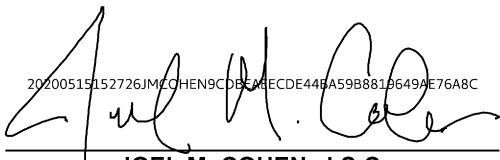
in redacted form on NYSCEF, provided that an unredacted copy of any redacted document is contemporaneously filed under seal; it is further

ORDERED that the Paragraphs and Footnotes for which temporary sealing/redacting is requested (Paragraphs 56, 58, 59, 93, 118, and 122 of the Counterclaims; Paragraphs 75, 94, and 121 to Exhibit 1 to the Carlinsky Affirmation; the redacted portion of the Motion to Consolidate, including Paragraphs 56, 58, 59, 93, 118, 121, 122, 123, 124, and Footnote 9 to Exhibit A, Paragraphs 75 and 94 of Exhibit 2 to the Carlinsky Affirmation, Paragraphs 56, 58, 59, 93, 118, 121, 122, 123, 124, and Footnote 10 of Exhibit B, and Paragraphs 75 and 94 of Exhibit 3 to the Carlinsky Affirmation) may remain provisionally sealed/redacted until the Court has resolved Motion 009, Plaintiffs' motion to permanently redact that information; and it is further

ORDERED that nothing in this Order shall be construed as authorizing the sealing or redactions of any documents or evidence to be offered at trial.

This constitutes the Decision and Order of the Court.

5/15/2020
DATE


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JOEL M. COHEN, J.S.C.

CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION
	<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/>	GRANTED IN PART
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	OTHER
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	FIDUCIARY APPOINTMENT
			<input type="checkbox"/>	REFERENCE