

Hindlin v Prescription Songs LLC
2020 NY Slip Op 32583(U)
August 3, 2020
Supreme Court, New York County
Docket Number: 651974/2018
Judge: Andrea Masley
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. ANDREA MASLEY PART IAS MOTION 48EFM

Justice

-----X

INDEX NO. 651974/2018

JACOB KASHER HINDLIN,
Plaintiff,

MOTION DATE

MOTION SEQ. NO. 008

-v-

PRESCRIPTION SONGS LLC and KASZ MONEY, INC.,
Defendants.

DECISION + ORDER ON MOTION

-----X

KASZ MONEY INC.,
Defendant-Counterclaim Plaintiff,

-v-

JACOB KASHER HINDLIN,
Plaintiff-Counterclaim Defendant.

-----X

MASLEY, J.:

The following e-filed documents, listed by NYSCEF document number (Motion 008) 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 245, 247, 248, 249, 250, 258.

were read on this motion to/for SEAL

In motion sequence number 008, plaintiff-counterclaim defendant Jacob Kasher Hindlin moves to seal NYSCEF Doc Nos. 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249 and 250. These documents are a Memorandum of Law, an affirmation, and appended exhibits that were served by defendants in connection with a discovery motion to limit third-party discovery and quash subpoenas. (NYSCEF Doc. No [NYSCEF] 231, Goodman aff. ¶ 1.)

The exhibits are a copy of an Executive Producer Agreement dated January 10, 2019 (NYSCEF 239), a copy of an Executive Producer Agreement dated June 12, 2019 (NYSCEF 240), a copy of an Exclusive Recording Agreement dated July 15, 2016

(NYSCEF 241), a copy of an Exclusive Recording Agreement dated January 19, 2017 (NYSCEF 242), a copy of a Brand Agreement dated January 19, 2017 (NYSCEF 243), a copy of an Entertainment Income Agreement dated January 19, 2017 (NYSCEF 244), a copy of a Termination and Release Agreement dated December 2018 (NYSCEF 245), a copy of a Settlement and Release Agreement dated October 24, 2016 (NYSCEF 246), a copy of the Exclusive Recording Agreement dated March 24, 2017 (NYSCEF 247), and a copy of an unsigned letter agreement (NYSCEF 248).

Hindlin submits the detailed and thorough affirmation of his counsel, Andrew J. Goodman, who asserts that NYSCEF 239, 240 and 247 contain competitively sensitive information such as financial costs and royalty percentages. (NYSCEF 231, Goodman aff. ¶¶ 7, 8.) Disclosure of this information could allegedly threaten a competitive advantage of Hindlin's in future negotiations. (*Id.*)

Hindlin further argues that NYSCEF 241, 242, 243, 244 also contain non-public pricing information and other business terms that could allegedly threaten Hindlin's competitive advantage if disclosed. (*Id.* ¶ 9.)

Additionally, Hindlin asserts that NYSCEF 245, 246 and 248 are confidential settlements that contain sensitive information such as pricing, percentage of royalties, and ownership interests among other things. (*Id.* ¶¶ 10, 11.)

The Memorandum of Law and affirmation (filed on NYSCEF 249 and 250) allegedly cite the above information and therefore should be sealed.

The motion is unopposed. Neither the press nor public have expressed interest in this information.

Section 216.1(a) of the Uniform Rules for Trial Courts empowers courts to seal documents upon a written finding of good cause. It provides:

“(a) [e]xcept where otherwise provided by statute or rule, a court shall not enter an order in any action or proceeding sealing the court records, whether in whole or in part, except upon a written finding of good cause, which shall specify the grounds thereof. In determining whether good cause has been shown, the court shall consider the interests of the public as well as the parties. Where it appears necessary or desirable, the court may prescribe appropriate notice and an opportunity to be heard.

(b) For purposes of this rule, ‘court records’ shall include all documents and records of any nature filed with the clerk in connection with the action. Documents obtained through disclosure and not filed with the clerk shall remain subject to protective orders as set forth in CPLR 3103 (a).”

Judiciary Law § 4 provides that judicial proceedings shall be public. “The public needs to know that all who seek the court’s protection will be treated evenhandedly,” and “[t]here is an important societal interest in conducting any court proceeding in an

open forum.” (*Baidzar Arkun v Farman-Farma*, 2006 NY Slip Op 30724[U],*2 [Sup Ct, NY County 2006] [citation omitted].) The public right of access, however, is not absolute. (*See Danco Lab, Ltd. v Chemical Works of Gedeon Richter, Ltd.*, 274 AD2d 1, 8 [1st Dept 2000].)

The “party seeking to seal court records bears the burden of demonstrating compelling circumstances to justify restricting public access” to the documents. (*Mosallem v Berenson*, 76 AD3d 345, 348-349 [1st Dept 2010] [citations omitted].) Good cause must “rest on a sound basis or legitimate need to take judicial action.” (*Danco Labs.*, 274 AD2d at 9.)

In the business context, courts have sealed records where trade secrets are involved or where the disclosure of documents “could threaten a business’s competitive advantage.” (*Mosallem*, 76 AD3d at 350-351 [citations omitted].) Additionally, the First Department has affirmed the sealing of records concerning financial information where there has not been a showing of relevant public interest in disclosure of the financing. (see *Dawson v White & Case*, 184 AD2d 246, 247 [1st Dept 1992].) For instance, in *Dawson v White & Case*, the First Department stated that the plaintiff-appellant failed to show “any legitimate public concern, as opposed to mere curiosity, to counter-balance the interest of defendant’s partners and clients in keeping their financial arrangement private.” (*Id.* [internal quotation marks and citation omitted].)

Here Hindlin has demonstrated that good cause exists to redact NYSCEF Doc. Nos 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249 and 250. Because of the various financial and business terms such as non-public pricing information and royalty percentages, disclosure could threaten Hindlin’s competitive advantage in the market. (*Mosallem*, 76 AD3d at 350-351.) Moreover, there is no indication of public concern to counter-balance Hindlin’s interest in keeping his financial arrangements private. (*Dawson v White & Case*, 184 AD2d at 247.)

Accordingly, it is

ORDERED that the motion is granted to the extent that Hindlin shall redact all references to financial information and business terms as proposed by Hindlin and in accordance with this decision from NYSCEF 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249 and 250; and it is further

ORDERED that the County Clerk, upon service to him of this order, shall seal NYSCEF Doc. Nos 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249 and 250; and it is further

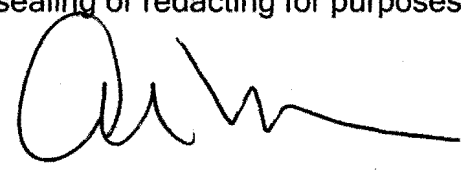
ORDERED that within 10 days of this order being filed on NYSCEF, Hindlin shall file redacted versions of NYSCEF Doc. Nos 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249 and 250; and it is further

ORDERED that Hindlin may redact this financial information and business terms from future court records; and it is further

ORDERED that 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 does not authorize sealing or redacting for purposes of trial.

8/3/2020



DATE

CHECK ONE: CASE DISPOSED GRANTED DENIED NON-FINAL DISPOSITION GRANTED IN PART OTHER

APPLICATION: SETTLE ORDER SUBMIT ORDER FIDUCIARY APPOINTMENT REFERENCE

CHECK IF APPROPRIATE: INCLUDES TRANSFER/REASSIGN