

Mehra v Teller

2021 NY Slip Op 31481(U)

April 29, 2021

Supreme Court, New York County

Docket Number: 657027/2020

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

SANJIV MEHRA,

Plaintiff,

- v -

JONATHAN TELLER, SARAH SLOVER, THE KIND GROUP
LLC, and EOS PRODUCTS, LLC,

Defendants.

-----X

INDEX NO. 657027/2020

MOTION DATE 01/20/2021

MOTION SEQ. NO. 002

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 002) 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 42, 43, 44, 46

were read on this motion to/for

SEAL

In motion sequence number 002, defendants Jonathan Teller, Sarah Solver, The KIND Group LLC, and EOS Products, LLC move to seal NYSCEF Doc. Nos. 2, 7, 16, and 18, respectively Exhibits 1-4 to the Affirmation of Dominic J. Pody, and to publicly file redacted versions of those documents proposed at NYSCEF Doc. Nos. 30-34.

NYSCEF Doc. No. 2 contains the unredacted complaint, from which defendants seek to redact the dollar amounts of confidential and recent financial information including information such as cash flow and available cash positions, assets and liabilities, and loan amounts. NYSCEF Doc. No. 7 contains the unredacted Affidavit of Sanjiv Mehra, from which defendants similarly seek to redact the dollar amounts of confidential and recent financial information including information such as losses, cash positions, loan amounts, and accounts receivable. NYSCEF Doc. No. 16 contains the unredacted version of a loan and security agreement in which EOS Products, LLC acted as borrower and The KIND Group LLC acted as a co-guarantor, and from which

defendants seek to redact the confidential bank account information and the specific dollar amounts of the loan. NYSCEF Doc. No. 18 contains the unredacted version of plaintiff's Memorandum of Law in Support of Plaintiff's Motion for a Temporary Restraining Order and Preliminary Injunction from which defendants seek to redact the dollar amounts of confidential and recent financial information such as losses, cash positions, and loan amounts.

Defendants argue that they seek narrow redactions of recent confidential and financial information, the disclosure of which would harm its competitive advantage in its industry. Defendants also contend that there is no legitimate public interest in the disclosure of these confidential documents

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.”

In the business context, courts have sealed records where the disclosure of documents “could threaten a business's competitive advantage.” (*Mosalle v Berenson*, 76 AD3d 345, 350-351 [1st Dept 2010] [citations omitted].) Records concerning financial information may be sealed where there has not been a showing of relevant public interest in the disclosure of that information. (See *Dawson v White & Case*, 184 AD2d 246, 247 [1st Dept 1992].) A party “ought not to be required to make

their private financial information public ... where no substantial public interest would be furthered by public access to that information” and that “sealing a court file may be appropriate to preserve the confidentiality of materials which involve the internal finances of a party and are of minimal public interest.” (*D'Amour v Ohrenstein & Brown*, 17 Misc 3d 1130[A], 1130A, 2007 NY Slip Op 52207[U], *20 [Sup Ct, NY County 2007][citations omitted].)

To the extent that defendants seek to keep private their confidential business and financial information, the disclosure of which would cause competitive harm, defendants have demonstrated that good cause exists. (*Mosallem*, 76 AD3d at 350-351 [citations omitted].) Additionally, there has been no showing of legitimate public concern in these terms to counterbalance the interests of the parties in keeping private their nonpublic business and financial information. (See *Dawson*, 184 AD2d at 247 [1st Dept 1992].) Furthermore, rather than requesting a wholesale sealing of the documents at issue, defendants have sought only a narrow redaction of the nonpublic financial information, seeking only to seal the specific dollar amounts, and limiting their request to recent information not older than one year. (See NYSCEF Doc. No. 35). This tailored redaction effectively balances the interests of the public with the interest of the parties in keeping private their nonpublic and sensitive business and financial information. (See *Danco Lab, Ltd. v Chemical Works of Gedeon Richter, Ltd.*, 274 AD2d 1, 9 [1st Dept 2010].)

Accordingly, it is

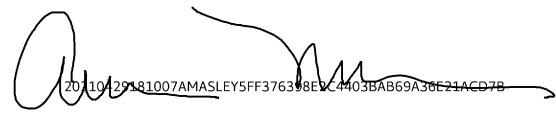
ORDERED that the motion is granted to the extent that defendants shall file a copy of NYSCEF Doc. Nos. 2, 7, 16, and 18 redacted as addressed above and as

proposed in NYSCEF Doc. Nos. 31-34 to be publicly accessible and shall file an unredacted version under seal; and it is further

ORDERED that the New York County Clerk, upon service to him of this order, is directed to permanently seal NYSCEF Doc. Nos. 2, 7, 16, and 18; and it is further

ORDERED the New York County Clerk shall restrict access to the sealed documents with access to be granted only to authorized court personnel and designees, the parties and counsel of record in this action, and any representative of a party or of counsel of record upon presentation to the County Clerk of written authorization from counsel; and it is further

ORDERED that any further publicly available filing in this action containing the sealed or redacted portions of NYSCEF Doc. Nos. 2, 7, 16, and 18 or describing the substance thereof, shall be filed in redacted form on the docket and with the unredacted form submitted under seal.


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4/29/2021
DATE

ANDREA MASLEY, J.S.C.

CHECK ONE:

CASE DISPOSED
 GRANTED DENIED

NON-FINAL DISPOSITION
 GRANTED IN PART OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT REFERENCE