

Tekiner v Bremen House Inc.
2021 NY Slip Op 31835(U)
May 27, 2021
Supreme Court, New York County
Docket Number: 657193/2020
Judge: Joel M. Cohen
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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART IAS MOTION 3EFM

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YASEMIN TEKINER,

Plaintiff,

- v -

BREMEN HOUSE INC., BREMEN HOUSE TEXAS, INC.,
GERMAN NEWS COMPANY, INC., GERMAN NEWS
TEXAS, INC., 254-258 W. 35TH ST. LLC, BERRIN
TEKINER, GONCA TEKINER, BILLUR AKIPEK

Defendants.

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INDEX NO. 657193/2020

MOTION DATE 02/22/2021

MOTION SEQ. NO. 002

**DECISION + ORDER ON
MOTION**

HON. JOEL M. COHEN:

The following e-filed documents, listed by NYSCEF document number (Motion 002) 84, 85
were read on this motion to SEAL.

Plaintiff moves for an order sealing and redacting certain documents filed in connection with her motion for a preliminary injunction (Motion Sequence Number 001). For the following reasons, Plaintiff’s motion is **denied** without prejudice to filing a new motion consistent with the guidance provided below.

Pursuant to § 216.1 (a) of the Uniform Rules for Trial Courts, this Court may seal a filing “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 of the parties” (22 NYCRR § 216.1 [a]).

The Appellate Division has emphasized that “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]). “Since the right [of public access to court proceedings] is of constitutional dimension, any order denying access must be *narrowly tailored to serve*

compelling objectives, such as a need for secrecy that outweighs the public's right to access” (*Danco Labs., Ltd. v Chemical Works of Gedeon Richter, Ltd.*, 274 AD2d 1, 6 [1st Dept 2000] [emphasis added]; *see also, e.g. Gryphon Dom. VI, LLC v APP Intern. Fin. Co., B.V.*, 28 AD3d 322, 324 [1st Dept 2006]). “Furthermore, because confidentiality is the exception and not the rule, ‘the party seeking to seal court records has the burden to demonstrate compelling circumstances to justify restricting public access’” (*Maxim, Inc. v Feifer*, 145 AD3d 516, 517 [1st Dept 2016] [citations omitted]).

Plaintiff failed to submit a memorandum of law supporting her sealing motion, as required per Commercial Division Rule 16(a), and did not comply with this Part’s Sealing Practices and Procedures, [part3-sealing-practices.pdf \(nycourts.gov\)](https://www.nycourts.gov/part3-sealing-practices.pdf). More importantly, the broad and categorical assertions of good cause in the supporting affirmation from Plaintiff’s counsel do not establish a compelling justification to seal the documents at issue in this motion (*see* NYSCEF Doc. No. 85 [“Affirmation of Esther Y. Kim”]).

For example, Plaintiff seeks to seal NYSCEF Documents 57 and 65 in their entirety because the documents are “email communications sent by Lawrence Shepps, Esq. concerning the sale of certain of Defendants’ properties. Defendants have asserted that these communications are privileged and confidential.” While portions of these documents may include privileged information, the record on this motion does not provide enough context for the Court to determine whether and to what extent that is the case, particularly since the communications appear to focus at least in part on commercial advice rather than legal advice. In order for the Court to seal these documents on the basis of attorney-client privilege, Plaintiff must provide further support and explanation and propose targeted redactions limited to such privileged information.

In addition, Plaintiff seeks to seal NYSCEF Documents 77 through 82 “in order to protect the Individual Defendants’ privacy interests in their health history.” Although Plaintiff’s concerns are legitimate, they do not justify sealing the documents in their entirety. Per *Danco*, the Court will consider proposed targeted redactions of private and confidential health care information.

Finally, if Plaintiff does not intend to provide unredacted versions of NYSCEF Documents 38, 39, and 40 for the *Court’s* consideration in this case, there is no need for a sealing order. Such an order is only necessary if the litigant seeks to shield a portion of the Court record from public view. If there is no unredacted copy in the Court record, there is nothing to seal.

Therefore, it is hereby

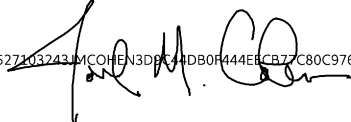
ORDERED that Motion Sequence Number 002 is **denied** without prejudice to filing a new motion within 21 days consistent with the guidance set forth in this Decision and Order; it is further

ORDERED that the documents filed as NYSCEF 57, 65, 77, 78, 79, 80, 81, and 82 **shall remain provisionally sealed for 21 days from the date of this Decision and Order**. If the parties file a new motion to seal or redact portions of the documents consistent with this Decision and Order within that 21-day period, adhering to this Part’s Sealing Practices and Procedures, the documents shall remain provisionally sealed pending resolution of that motion; it is further

ORDERED that if no such motion is filed within 21 days from the date of this Decision and Order, the parties shall within three business days thereafter file unredacted/unsealed copies of the documents on NYSCEF; it is further

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

This constitutes the decision and order of the Court.

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JOEL M. COHEN, J.S.C.

5/27/2021
DATE

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