

Novolex Holdings, LLC v Illinois Union Ins. Co.

2022 NY Slip Op 30552(U)

February 16, 2022

Supreme Court, New York County

Docket Number: 655514/2019

Judge: Andrea Masley

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This opinion is uncorrected and not selected for official publication.

NYSCEF 479 is an email communication containing an internal presentation document which discusses internal finances, sales information, business strategies and offerings, marketing strategies, and potential business ventures.

NYSCEF 481 is the expert report of Alfred P. Aldridge III, which uses and discusses internal customer pricing and promotional offering information and identifying customer information.

NYSCEF 484 is an email communication containing references to customer pricing 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.”

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], 2007 NY Slip Op 52207[U], *20 [Sup Ct, NY County 2007] [citations omitted].)

Here, Novolex seeks to redact internal financial information, customer promotional pricing and sales information, and marketing strategies—information that is confidential and proprietary—from NYSCEF 479, 481, and 484. Good cause exists to keep its confidential business and financial information private, the disclosure of which would cause harm to plaintiff’s competitive advantage. (*Mosallem*, 76 AD3d at 350-351 [citations omitted].) Additionally, there has been no showing of legitimate public concern to counterbalance the interests of Novolex and third parties in keeping private their nonpublic business and financial information. (See *Dawson*, 184 AD2d at 247 [1st Dept 1992].) Moreover, the requested redactions are narrowly tailored, seeking only to redact specific pricing and strategy information. 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].)

Novolex also seeks to seal NYSCEF 477, an email chain between nonparties to this action, discussing confidential financial information and negotiated business strategy and terms, in its entirety. For all the reasons stated above, Novolex has demonstrated that good cause exists to redact the financial information contained in NYSCEF 477. The fact that this document is subject to the Confidentiality Stipulation does not warrant that it be sealed in its entirety. Parties cannot use the Confidentiality

Stipulation as cause to seal as stipulations to seal do not equate to good cause shown.

Thus, Novolex is directed to file a redacted version of this document publicly.

Accordingly, it is

ORDERED that motion sequence 013 is granted; and it is further

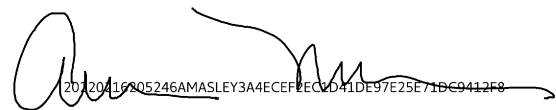
ORDERED that as redacted versions of NYSCEF 479, 481, and 484 having already been filed publicly and unredacted copies under seal, Novolex need not re-file duplicates; and it is further

ORDERED that Novolex is directed to file a redacted copy of NYSCEF 477 publicly; and it is further

ORDERED that the County Clerk, upon service to him of this order, shall permanently seal NYSCEF 477, 479, 481, and 484; 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 the above-captioned 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 this order does not authorize sealing or redacting for purposes of trial.



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2/16/2022
DATE

ANDREA MASLEY, J.S.C.

CHECK ONE:

CASE DISPOSED

GRANTED

SETTLE ORDER

INCLUDES TRANSFER/REASSIGN

DENIED

NON-FINAL DISPOSITION

GRANTED IN PART

SUBMIT ORDER

FIDUCIARY APPOINTMENT

OTHER

REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: