

Hui Xu v Coconut Beach/Haw., LLC

2022 NY Slip Op 31323(U)

April 21, 2022

Supreme Court, New York County

Docket Number: Index No. 651648/2020

Judge: Andrea Masley

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 48

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HUI XU	INDEX NO.	<u>651648/2020</u>
Plaintiff,	MOTION DATE	_____
- v -	MOTION SEQ. NO.	<u>004</u>
COCONUT BEACH/HAWAII, LLC,	DECISION + ORDER ON	
Defendant.	MOTION	

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HON. ANDREA MASLEY:

The following e-filed documents, listed by NYSCEF document number (Motion 004) 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91
were read on this motion to/for _____ SEAL _____.

In motion sequence number 004, plaintiff Hui Xu moves, by Order to Show Cause, to redact information from NYSCEF Doc. No. [NYSCEF] 77,¹ submitted in connection with plaintiff’s motion to hold defendant in civil contempt on the grounds that this document contains bank account information and lender identities. The court has already determined that lender identities are to be for attorneys’ eyes only. (NYSCEF 75, Tr at 22:9-21.) Defendant has not submitted opposition. There is no indication that the press or public have an interest in this action.

NYSCEF 77 is an email chain that contains complete bank account numbers from defendant’s tax returns, as well as the names of the loan agreements that may disclose the lender’s identity.

¹ Plaintiff submitted separate unredacted exhibits for this motion under NYSCEF 85 and 86.

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.”

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.)

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].)

Good cause exists to redact the complete bank account numbers and lender identities. There has been no showing of relevant public interest in the disclosure of bank account numbers, or the lender identities. (*See Dawson* 184 AD2d at 247.) Additionally, the court has already instructed the lender identities to be for attorneys' eyes only. (NYSCEF 75, Tr at 22:9-21.)

Accordingly, it is

ORDERED that motion sequence 004 is granted. Plaintiff has already filed a redacted copy as NYSCEF 83, and need not file another copy; and it is further

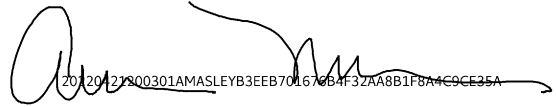
ORDERED that the County Clerk, upon service to him of this order, shall seal NYSCEF 77, 85, and 88; and it is further

ORDERED the 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 sealing/redaction of court documents, in accordance with and pursuant to a prior court order permitting redaction/sealing of future court documents, shall be done by electronically filing and emailing (SFC-Part48@nycourts.gov): (i) an affidavit or affirmation that shall include a spreadsheet or chart that clearly and specifically identifies each document it seeks to seal and states the basis for

sealing/redacting those documents pursuant to the prior order, and (ii) a proposed order directing the court to grant such relief.

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



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4/21/2022
DATE

ANDREA MASLEY, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE