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| <b>Catalyst Invs. III, L.P. v We Co.</b>                                                                                                                                                                                       |
| 2022 NY Slip Op 31581(U)                                                                                                                                                                                                       |
| May 13, 2022                                                                                                                                                                                                                   |
| Supreme Court, New York County                                                                                                                                                                                                 |
| Docket Number: Index No. 654377/2020                                                                                                                                                                                           |
| Judge: Joel M. Cohen                                                                                                                                                                                                           |
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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 03M

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CATALYST INVESTORS III, L.P., CATALYST  
INVESTORS QP III, L.P., BLUE CLOUD VENTURES II  
LP, IGC FUND VI, L.P.

Plaintiffs,

- v -

THE WE COMPANY, ADAM NEUMANN, ARTHUR  
MINSON,

Defendants.

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INDEX NO. 654377/2020

MOTION DATE N/A

MOTION SEQ. NO. 007

**DECISION + ORDER ON  
MOTION**

HON. JOEL M. COHEN:

The following e-filed documents, listed by NYSCEF document number (Motion 007) 121, 122, 123, 124, 125, 126, 152

were read on this motion to SEAL.

Defendant The We Company (“WeWork”) moves for an order sealing and/or redacting NYSECF 91 and the Exhibits at NYSECF 91, 94, 96, 97, 99, 100, 101, 102, 103, 104, and 105. This motion is filed pursuant to Plaintiffs’ Motion to Compel (Mot. Seq. 008), wherein Plaintiff filed their papers and the accompanying exhibits under provisional seal (NYSECF 89–120), noting that Defendants and other non-parties had seven days to move to seal pursuant to the terms of the protective order entered in this action (NYSECF 91). No parties oppose this motion. For the reasons stated below, Defendant’s motion is **granted in part**.

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]).

The Court has reviewed unredacted versions of Exhibits 1, 3, 4, 6, 8 (NYSCEF 94, 96, 97, 99, 100, 101), which were submitted to the Court for *in camera* review, as well as the proposed redactions in Plaintiff’s Memorandum of Law (NYSCEF 91) that relate to the above exhibits and finds that they comport with the applicable sealing standards as laid out in *Mosallem*, 76 AD3d at 348-50, and its progeny. The documents contain extensive sensitive non-public financial information including WeWork’s acquisition strategy and transaction management, internal business strategy, financial statements, audits, and operations. In addition, Exhibits 9 and 10 (NYSCEF 102 and 103) are properly sealed because they contain confidential nonpublic information of parties who are not parties to the instant case (*Mancheski v Gabelli Group Capital Partners*, 39 AD3d 499, 502 [2d Dept 2007] [“disclosure could impinge on the privacy rights of third parties who clearly are not litigants herein”]).

Finally, there is no basis to seal Exhibits 11 and 12 (NYSECF 104 and 105) for the reasons stated in Defendant's moving papers, as the Court has already addressed the parties' discovery dispute and determined that these documents are not protected under attorney-client privilege (NYSCEF 156, 159). Likewise, the proposed redactions in Plaintiff's Memorandum of Law (NYSCEF 91) referencing Exhibits 11 and 12 must be lifted.

Accordingly, it is:

**ORDERED** that Defendant's Motion to Seal and/or Redact is **granted in part**; and Defendant shall file Exhibits 1, 3, 4, 6, 8, 9, 10 on NYSCEF in unredacted form with a request to seal; it is further

**ORDERED** that Defendant shall within three business days file a revised version of Plaintiff's Memorandum of Law (NYSCEF 91) without redactions of the references to Exhibits 11 and 12; and it is further

**ORDERED** that upon service of a copy of this Order upon the Clerk of the Court, the Clerk shall permit the documents identified as Plaintiff's Memorandum of Law and Exhibits 1, 3, 4, 6, 8, 9, 10, previously filed at NYSCEF 91, 94, 96, 97, 99, 100, 101, 102, 103 to remain filed in a sealed and/or redacted form wherever they shall appear in connection with motion sequence 007 or 008. Until further Order of the Court, the Clerk of the Court shall deny access to the unredacted documents to anyone other than the staff of the Clerk or the court, counsel of record for any party to this case, and any party. Provided that: The Clerk of the Court shall not seal any documents not referenced in this Order or as otherwise described below; it is further

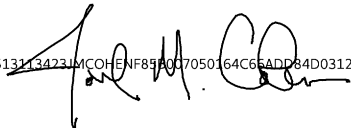
**ORDERED** that future submissions, made by any party, that contain subject matter that the Court has authorized to be sealed by this Order may be filed in redacted form on NYSCEF,

provided that an unredacted copy of any redacted document is contemporaneously filed under seal; it is further

**ORDERED** that Defendant’s motion is otherwise **denied**, and Defendant shall within three business days file the unredacted/unsealed copies of Exhibits 11 and 12 (NYSCEF 104 and 105); and it is further

**ORDERED** that nothing in this Order shall be construed as authorizing the sealing or redactions 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.

5/13/2022  
DATE

CHECK ONE:

CASE DISPOSED  
GRANTED  DENIED  
SETTLE ORDER  
INCLUDES TRANSFER/REASSIGN

NON-FINAL DISPOSITION  
GRANTED IN PART  
SUBMIT ORDER  
FIDUCIARY APPOINTMENT

OTHER  
 REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: