

Tekiner v Bremen House Inc.
2022 NY Slip Op 32191(U)
July 8, 2022
Supreme Court, New York County
Docket Number: Index No. 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 03M

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YASEMIN TEKINER,

INDEX NO. 657193/2020

Plaintiff,

N/A,
04/28/2022,

- v -

MOTION DATE 05/05/2022

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, ZEYNEP
TEKINER,

MOTION SEQ. NO. 008 011 014

**DECISION + ORDER ON
MOTION**

Defendants.

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HON. JOEL M. COHEN:

The following e-filed documents, listed by NYSCEF document number (Motion 008) 199, 200, 201, 202, 203

were read on this motion to

SEAL

The following e-filed documents, listed by NYSCEF document number (Motion 011) 243, 244, 245, 246, 247, 248

were read on this motion to

SEAL

The following e-filed documents, listed by NYSCEF document number (Motion 014) 293, 294, 295, 296, 297

were read on this motion to

SEAL

These motions seek to seal and/or redact certain documents filed in connections with Plaintiff Yasemin Tekiner's ("Plaintiff") motion for Leave to Renew (Mot. Seq. 007).

In Motion Sequence 008, Plaintiff moves for an order sealing and/or redacting certain portions of the December 22, 2021 Deposition Transcript of Zeynep Tekiner (NYSCEF 167 ["Zeynep Transcript"]), the December 8, 2021 Deposition Transcript of Billur Akipek (NYSCEF 169 ["Billur Transcript"]) and a Berrin Officer Loan Transaction (NYSCEF 177).

In Motion Sequence 011, Defendants Bremen House, Inc., German News Company, Inc., Berrin Tekiner, Gonca (Tekiner) Chelsea, and Billur Akipek (“Defendants”) likewise move for an order sealing and/or redacting portions of the Zeynep Transcript (NYSCEF 238), the Billur Transcript (NYSCEF 236), as well as an August 2, 2016 text message (NYSCEF 226), Extell Sale Closing Statement Excerpt (NYSCEF 228), a Spreadsheet with 1031 Exchange Properties (NYSCEF 229), and a November 13, 2019 Email (NYSCEF 230).

In Motion Sequence 014, Plaintiff Yasemin Tekiner (“Plaintiff”) moves for an order sealing and/or redacting portions of the Zeynep Transcript (NYSCEF 269) and Billur Transcript (NYSCEF 274), as well as text message exchanges (NYSCEF 267, 268, 279, 284, 287, and 290), a Berrin Tekiner Statement of Financial Condition (NYSCEF 272), Appraisal of 35th Street Property (NYSCEF 275), Photos of Trust Documents (NYSCEF 277), and an Audio Recording (NYSCEF 278). For the following reasons, these motions are **denied**.

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]).

In this case, Plaintiff submits that it has filed Motions 008 and 014 based solely on Defendants’ contention that these documents contain sensitive business information and/or personal potentially identifying information in accordance with the parties’ confidentiality stipulation (*see* NYSCEF 200 ¶ 2 [“Affirmation of Stephen Younger”]; NYSCEF 294 ¶ 2 [“Affirmation of Stephen Younger”]). Defendants’ motion provides no further explanation or support for its confidentiality designations. The fact that the parties have stipulated to sealing documents, or that they have designated the documents during discovery as “Confidential” or “Highly Confidential,” does not, by itself, require granting of the motion (*see, e.g., Maxim*, 145 AD3d at 518; *Gryphon*, 28 AD3d at 324).

Defendants’ broad and categorical assertions of good cause do not establish a compelling justification to seal the at issue in this motion. While *portions* of certain documents may include sensitive or confidential information, the record on these motions does not establish that is the case. In view of the admonition that sealing of court records must be “narrowly tailored to serve compelling objectives,” (*Danco*, 274 AD2d at 6), Defendants will need to propose and justify targeted redactions that satisfy the requirements of 22 NYCRR § 216 (a) and applicable case law.¹

¹ Further, although the parties have provided sealed, unredacted copies of each document, the unredacted copies do not highlight the redactions. Additionally, the spreadsheets provided in Mot. Seq. 008 and 011 do not contain an accurate description of the redactions made of the

The documents will remain provisionally under seal to permit the prompt filing of a single follow-up motion by Defendants explaining why the documents at issue in all three motions are confidential and proposing specific redactions for those documents.

Accordingly, it is:

ORDERED that Mot. Seq. 008, 011, and 014 are **denied without prejudice** to filing a new motion within 21 days to redact confidential portions of documents consistent with this Decision and Order and applicable law; it is further

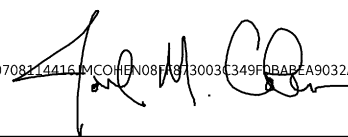
ORDERED that the documents filed as NYSCEF 167, 169, 177, 226, 228, 229, 230, 236, 238, 267, 268, 269, 272, 274, 275, 277, 278, 279, 284, 287, and 290, shall remain provisionally sealed for 21 days from the date of the Court's entry of this Decision and Order on NYSCEF. If Defendants file a new motion to seal or redact confidential portions of the documents consistent with this Decision and Order within that period, the documents shall remain provisionally sealed pending resolution of that motion. If no such motion is filed within 21 days from the entry of this Decision and Order, the Court will direct the Clerk to immediately unseal the above listed documents; and it is further

ORDERED that nothing in this 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.

Zeynep Transcript or the Billur Transcript, as the spreadsheets include pages that are not included in exhibits submitted. The Court reminds the parties to closely follow the sealing rules as set forth in [part3-sealing-practices.pdf \(nycourts.gov\)](https://nycourts.gov/part3-sealing-practices.pdf) for any future sealing motions.

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**JOEL M. COHEN, J.S.C.****7/8/2022****DATE**

CHECK ONE:

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CASE DISPOSED

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NON-FINAL DISPOSITION

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GRANTED

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DENIED

☐

GRANTED IN PART

☐

OTHER

APPLICATION:

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SETTLE ORDER

☐

SUBMIT ORDER

CHECK IF APPROPRIATE:

☐

INCLUDES TRANSFER/REASSIGN

☐

FIDUCIARY APPOINTMENT

☐

REFERENCE