

**Wework Cos. LLC v Parkmerced Holdings  
Subsidiary LLC**

2022 NY Slip Op 34216(U)

December 12, 2022

Supreme Court, New York County

Docket Number: Index No. 651708/2020

Judge: Andrea Masley

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

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WEWORK COMPANIES LLC, AS SUCCESSOR IN  
INTEREST TO WEWORK COMPANIES INC.,

Plaintiff,

- v -

PARKMERCED HOLDINGS SUBSIDIARY LLC,  
PARKMERCED INVESTORS, LLC, and JOHN DOES 1  
THROUGH 10,

Defendants.

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INDEX NO. 651708/2020

MOTION DATE N/A

MOTION SEQ. NO. 002

**DECISION + ORDER ON  
MOTION**

HON. ANDREA MASLEY:

The following e-filed documents, listed by NYSCEF document number (Motion 002) 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130

were read on this motion to/for SEAL.

In motion sequence number 002, defendants Parkmerced Holdings Subsidiary LLC and Parkmerced Investors LLC move, pursuant to Section 216.1(a) of the Uniform Rules for New York State Trial Courts, to redact NYSCEF Doc. No. (NYSCEF) 124.

There is no indication that the press or public have an interest in this matter. Plaintiff WeWork Companies, LLC, as successor in interest to WeWork Companies Inc. opposes the motion.

NYSCEF 124 is the deposition transcript of Robert Rosania (Transcript). Defendants contend redaction is appropriate because the Transcript contains nonparty financial information, employment information, and business opinions, the disclosure of which could negatively impact an ongoing real estate development project as well as cause harm to nonparties. Specifically, defendants seek to redact names of investors, the name of Rosania’s children’s trust (Trust), the name of a mortgage lender and

amount,<sup>1</sup> the name of a certain nonparty individual, internal discussions related to loan applications and the name of a lender, business discussions and opinions about choosing a specific lender, recitation of a provision titled “Preferred Principal” and details concerning that provision,<sup>2</sup> and the name of an investor-entity, and account numbers.

### Legal Standard

“Under New York law, 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] [citations omitted].) However, the public right to access is not absolute and exceptions exist to shield court documents from public view. (*Id.* at 349.) As the public’s right to access 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 Laboratories, Ltd. v Chemical Works of Gedeon Richter, Ltd*, 274 AD2d 1, 6 [1st Dept 2000].)

Pursuant to Section 216.1(a) of the Uniform Rules for New York State Trial Courts, courts are empowered 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

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<sup>1</sup> Defendants seek to redact this information, which is contained in the form of a question that was repeated to the deponent after the deponent indicated he did not understand the preceding question. (NYSCEF 124, Rosania tr at 32:24-33:8.) Defendants are not seeking to redact the preceding question.

<sup>2</sup> Defendants do not indicate from which document this provision is taken.

as well as the parties. Where it appears necessary or desirable, the court may prescribe appropriate notice and an opportunity to be heard.”

The “party seeking to seal court records has the burden to demonstrate compelling circumstances to justify restricting public access” to the documents. (*Mosallem*, 76 AD3d at 349 [citations omitted].) In the business context, courts have sealed records where the disclosure of documents “could threaten a business’s competitive advantage.” (*Id.* at 350-51.) 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].)

A party’s mere designation of a document as confidential or restricted is insufficient to support a finding of good cause to seal court records in whole or in part. (*Mosallem*, 76 AD3d at 345 [noting, rather, that New York courts have found good cause where disclosure of documents could threaten a business’s competitive advantage]; *In re Will of Hofman*, 284 AD2d 92, 94 [1st Dept 2001] [citation omitted] [explaining that “conclusory claims of the need for confidentiality of settlement agreements are insufficient to seal a record.”]; *Grande Prairie Energy LLC v Alstom Power, Inc*, 5 Misc 3d 1002 [A] [Sup Ct, NY County 2004].)

## Discussion

Defendants contend that the disclosure of the nonparty financial information, employment information, and business opinions would negatively impact an ongoing real estate development project and cause harm to the nonparties. Moreover, defendants argue that their proposed redactions are targeted to hide information that is immaterial to the claims and defenses in this action. On the other hand, plaintiff argues that redaction of the Transcript is not warranted because (i) nearly half of the information defendants seek to seal is already publicly available on the docket and defendants have never previously sought to redact this information, (ii) they are relevant to plaintiff's claims and summary judgment motion, and (iii) they are targeted to hide embarrassing statements made by Rosania. Further, plaintiff asserts that defendants' arguments in favor of redaction are vague and nonspecific to the portions of the transcript defendants seek to seal.

The court agrees with plaintiff, principally that defendants' arguments are vague and conclusory, and finds that defendants have failed to demonstrate good cause sufficient to support their proposed redactions to the Transcript. Critically, defendants do not sufficiently explain or describe how this information relating to this action would negatively impact an unspecified ongoing project that may or may not be related to this action. Defendants' arguments supporting their requested redactions are, therefore, conclusory and the court has no basis to permit redaction of the Transcript.

Specifically, defendants do not provide a satisfactory basis for redacting the name of the individual at Ackman-Ziff and why this individual's name is redacted in some portions of the Transcript and unredacted in other portions. The names of the

investors, investor-entity, and the name of the Trust defendants seek to redact are already publicly available on NYSCEF and, more importantly, defendants fail to explain why these proposed redactions cause harm to them even if this information was not publicly available.<sup>3</sup> (See, e.g., NYSCEF 7, exhibit “B” to verified compl., organization chart.) Similarly, defendants’ request to redact the purported business opinions and discussions surrounding the mortgage loan and amount, the name of the mortgage lender, internal discussions related to loan applications, the reasons for choosing a particular lender, and the “Preferred Principal” provision is denied for failing to explain how historical information (see, e.g., NYSCEF 124, Rosania tr at 32:24-33:8) related to this action would cause harm to an unspecified, ongoing real estate development project. For example, regarding the mortgage loan and amount, it appears that this information concerns the “spring of 2018.” (See *id.* at 32:24-25.)

Defendants seek to seal one portion of the Transcript that concerns Rosania’s unflattering description of nonparty Adam Neumann and how a Netflix show was created about Neumann. Defendants fail to provide any basis to redact Rosania’s opinion of Neumann. Even if a proper basis was provided, it appears that Rosania’s description of Neumann is merely embarrassing and contains no protectable information. (*Mosallem*, 76 AD3d at 351 [“Neither the potential for embarrassment or damage to reputation, nor the general desire for privacy, constitutes good cause to seal court records.”].)

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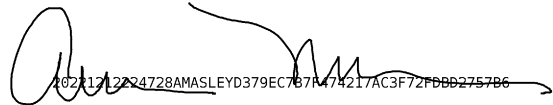
<sup>3</sup> It is also unclear why the identities of various investors are redacted in some portions of the Transcript but left unredacted in the same document.

Finally, pursuant to Section 202.5(e)(1)(iv) of the Uniform Rules for the Supreme Court and the County Court, defendants need not show good cause to redact a “financial account number, including . . . a bank account number . . . , except the last four digits or letters” as “parties shall omit or redact confidential personal information in papers submitted to the court for filing.”

Accordingly, it is

ORDERED that motion sequence number 002 is denied; and it is further

ORDERED that movant shall serve a copy of this decision and order on the County Clerk’s Office who is directed to unseal NYSCEF Doc. No. 124.



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12/12/2022  
DATE

ANDREA MASLEY, J.S.C.

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