

GNHC 1703-518, LLC v Venari Partners, LLC

2022 NY Slip Op 34315(U)

December 18, 2022

Supreme Court, New York County

Docket Number: Index No. 651347/2022

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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GNHC 1703-518, LLC,

Plaintiff,

- v -

VENARI PARTNERS, LLC, SWEETBRIAR CAPITAL, LLC,
MIN-FAM-HOLDING, LLC, 110 PARTNERS LIMITED
LIABILITY COMPANY, UPTOWN INVESTORS L.P., JOHN
MININNO, BRAD J. BLASCHAK, JOSEPH P. RICCARDO,
PETER RICCARDO, MICHAEL CALLAGHAN, JEREMIAH
CALLAGHAN, DOES 1-25, NHCALILLY, LLC,
NHCAGILEAD, LLC, NHCABAYLASH, LLC, HEALTH
CHOICE ALLIANCE, LLC, HEALTH CHOICE
ADVOCATES, LLC, and HEALTH CHOICE GROUP, LLC,

Defendants.

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INDEX NO. 651347/2022

MOTION DATE N/A

MOTION SEQ. NO. 007

**DECISION + ORDER ON
MOTION**

HON. ANDREA MASLEY:

The following e-filed documents, listed by NYSCEF document number (Motion 007) 103, 104, 105, 106, 107, 108, 109, 118

were read on this motion to/for SEAL.

In motion sequence number 007, plaintiff GNHC 703-518 LLC moves pursuant to Section 216.1(a) of the Uniform Rules for New York State Trial Courts to seal or redact NYSCEF Doc. Nos. (NYSCEF) 106-108. There is no indication that the press or public have an interest in this matter. Defendants Venari Partners, LLC, Min-Fam Holdings, LLC, and John Mininno (Venari Defendants) submit a memorandum of law in support of plaintiff's motion to seal NYSCEF 108 in its entirety.

NYSCEF 106 is plaintiff's memorandum of law in opposition to the Venari Defendants' motion to compel arbitrations and enjoin foreign state litigation (Arbitration Opposition). NYSCEF 107 is plaintiff's memorandum of law in opposition to certain defendants' motion to dismiss the complaint (Dismiss Opposition). Plaintiff contends

that the proposed redactions of NYSCEF 106 and 107 refer to portions of the unredacted complaint. NYSCEF 108 is the deposition transcript of defendant Brad Blaschak (Blaschek Deposition). The Venari Defendants supply the basis for sealing NYSCEF 108 and argue that the Blaschak Deposition contains proprietary terms and business information that would harm a company's competitive standing and such disclosure would also negatively affect the privacy rights of third parties. The Venari Defendants also assert that since the Blaschek Deposition was taken for a confidential arbitration, and that it was the parties' expectation that the testimony would remain confidential, the Blaschek Deposition should be sealed.

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 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

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

Motion sequence number 001 was refiled as motion sequence number 008. The parties shall submit proposed redactions of NYSCEF 106 and 107 in accordance with the court's decision on motion sequence number 008. (See NYSCEF 143, Decision and Order [mot. seq. no. 008].)

As to the wholesale sealing of NYSCEF 108, the Blaschek Deposition, there is no good cause to seal the entire 99-page transcript. While there may be references to proprietary information, business strategy, and internal financial information, there are many portions of the transcript that in no way implicate confidential information, the disclosure of which would cause competitive or economic harm to a party or nonparty, to warrant wholesale sealing of a document. The Venari Defendants shall submit proposed redactions in accordance with this decision and consistent with New York law. (See *Danco*, 274 AD2d at 8 [the parties shall target precise areas where redaction should occur].)

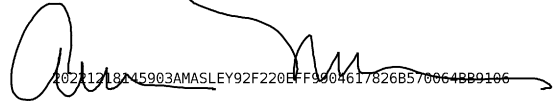
Finally, the court implores the parties to read all of and comply with Part 48 Procedures on redacting. This is one of numerous motions to seal submitted by the parties in this action, yet there is no sealing chart pursuant to this court's procedures despite the court declining to sign an earlier filed Order to Show Cause, seeking the same relief, for failing to comply with Part 48 Procedures. (NYSCEF 100, Order to Show Cause [mot. seq. no. 006].)

Accordingly, it is

ORDERED that motion sequence number 007 is denied without prejudice to the extent that it seeks to seal NYSCEF 108 in its entirety; and it is further

ORDERED that the parties shall submit proposed redactions of NYSCEF 106 and 107 with a proposed order to seal NYSCEF 106 and 107 in accordance with the court's decision on motion sequence number 008 within five days of this decision and order (SFC-Part48@nycourts.gov); and it is

ORDERED that, within ten days of this decision and order, this court will direct the County Clerk to unseal NYSCEF Doc. No. 108 unless a new OSC is filed.



12/18/2022

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