

**260-261 Madison Ave. LLC v  
WeWork 261 Madison LLC**

2023 NY Slip Op 30990(U)

March 29, 2023

Supreme Court, New York County

Docket Number: Index No. 654806/2021

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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260-261 MADISON AVENUE LLC,  
  
Plaintiff,

- v -

WEWORK 261 MADISON LLC, ADAM NEUMANN,  
WEWORK INC., WW HOLDCO LLC, THE WE COMPANY  
MC LLC, THE WE COMPANY MANAGEMENT  
HOLDINGS L.P., WEWORK COMPANIES LLC, THE WE  
COMPANY MANAGEMENT LLC, WE WORK  
MANAGEMENT LLC, WW BUILDCO LLC

Defendants.

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INDEX NO. 654806/2021  
  
MOTION DATE N/A  
  
MOTION SEQ. NO. 003

**DECISION + ORDER ON  
MOTION**

HON. JOEL M. COHEN:

The following e-filed documents, listed by NYSCEF document number (Motion 003) 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 113, 114, 118, 121, 122, 123

were read on this motion to SEAL.

Defendant WeWork 261 Madison LLC (“Defendant”) moves for an order sealing and/or redacting certain information contained in Defendants’ Memorandum of Law in Opposition to Plaintiff’s Motion for Leave to Amend the Complaint: Defendants’ Memorandum of Law in Opposition to Plaintiff’s Motion for Leave to Amend the Complaint (filed at NYSCEF 53, 76, and 77 [“Opp.”]); Affidavit of Peter Greenspan (filed at NYSCEF 58, 78, and 79 [“Greenspan Aff.”]); Exhibit A to the Greenspan Affidavit (filed at NYSCEF 59, 80, and 81 [“Ex. A”]); Exhibit B to the Greenspan Affidavit (filed at NYSCEF 60, 82, and 83 [“Ex. B”]); Exhibit C to the Greenspan Affidavit (filed at NYSCEF 61, 84, and 85 [“Ex. C”]); Exhibit D to the Greenspan Affidavit (filed at NYSCEF 62, 86, and 87 [“Ex. D”]); Exhibit E to the Greenspan Affidavit (filed at NYSCEF 63, 88, and 89 [“Ex. E”]); Exhibit M to the Greenspan Affidavit (filed at NYSCEF 71, 90, and 91 [“Ex. M”]) , as well as certain documents filed in support of this sealing

motion (NYSCEF 73, 74 75, 92). Plaintiff opposes this motion. For the following reasons, Defendant's motion to seal and/or redact 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 the proposed redactions in the Opp., Greenspan Aff., and Exs. A-E, and M and finds that *some* redactions comport with the applicable sealing standards as laid out in *Mosallem*, 76 AD3d at 348-50, and its progeny, in that they contain sensitive non-public about Defendant and other non-parties, including confidential business strategy, plans, and operations of the non-party WeWork affiliates. Specifically, Defendant may maintain the following under redaction: Opp. pp. 1, 3, 7, 10, 11, 12, 15-16; Greenspan Aff. ¶¶ 5, 6, 7, 8, 9, 10, 11, Exs. A, B,

E, F, G. Defendant has proposed and justified targeted redactions that satisfy the requirements of 22 NYCRR § 216.1 (a) for these redactions.

However, the proposed redactions relating to generalized statements relating to descriptions of WeWork's ownership structure, the names of certain WeWork employees, and the fact that these employees used "WeWork" email addresses to communicate (Opp. pp. 4, 7, 16, Ex. M) are denied as there has not been a sufficient showing that this information is confidential. However, Ex. M may be refiled with the phone numbers and third party vendor name still redacted.

The Court also finds no basis for sealing NYSCEF 74, 75, and 92 which are Defendant's sealing spreadsheet and affirmations in support of this motion. To the extent NYSCEF 73, Defendant's moving brief, contains any confidential information, Defendant may refile NYSCEF 73 with narrowly tailored redactions.

Accordingly, it is:

**ORDERED** that the motion is **GRANTED IN PART**; it is further

**ORDERED** that the County Clerk shall maintain NYSCEF Document Numbers 77, 79, 81, 83, 85, 87, 89, and 91 in their current, redacted form; it is further

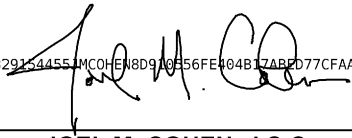
**ORDERED** that the County Clerk shall maintain NYSCEF Document Numbers 53, 58, 59, 60, 61, 62, 63, 71, 73, 76, 77, 78, 80, 82, 84, 86, 88, and 90 under seal, so that the documents may only be accessible by the parties, their counsel, and authorized court personnel; it is further

**ORDERED** that the County Clerk will unseal NYSCEF 74, 75, and 92; it is further

**ORDERED** that Plaintiff shall file redacted versions of NYSCEF 53, 71, and 73 in accordance with the Court's direction above within ten (10) business days of the date of this Order; it is further

**ORDERED** as it related to future submissions, made by any party, that contain subject matter that the Court has authorized to be sealed by this Order, parties may file a joint stipulation, to be So Ordered, which will authorize the filing of such future submissions to be filed in redacted form on NYSCEF, provided that an unredacted copy of any redacted document is contemporaneously filed under seal; 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.

<u>3/29/2023</u> <b>DATE</b>			 <small>20230329154455 JMC0HEN8D910E56FE404B17ABFD77CFAA8CCEC5</small> <hr/> <b>JOEL M. COHEN, J.S.C.</b>			
CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION		
	<input type="checkbox"/>	GRANTED	<input type="checkbox"/>	DENIED	<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