

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

2023 NY Slip Op 30992(U)

March 29, 2023

Supreme Court, New York County

Docket Number: Index No. 654806/2021

Judge: Joel M. Cohen

Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op 30001(U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.

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

-----X

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.

-----X

INDEX NO. 654806/2021

MOTION DATE 01/20/2023

MOTION SEQ. NO. 005

**DECISION + ORDER ON
MOTION**

HON. JOEL M. COHEN:

The following e-filed documents, listed by NYSCEF document number (Motion 005) 127, 128, 129, 130, 131, 132, 133, 134, 136, 137, 140, 141, 142

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 the Amended Complaint (filed at NYSCEF 125, 129, and 130) as well as certain documents filed in support of this sealing motion (NYSCEF 128, 131, 132, and 133). 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 Amended Complaint 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: Amended Complaint ¶¶3, 28, 30, 31, 40, 41. 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 (Amended Complaint ¶¶15, 33) are denied as there has not been a sufficient showing that this information is confidential.

The Court also finds no basis for sealing NYSCEF 128, 131, and 132 which are Defendant’s sealing spreadsheet and affirmations in support of this motion. To the extent

NYSCEF 133, Defendant's moving brief, contains any confidential information, Defendant may refile NYSCEF 133 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 Number 130 in its current, redacted form; it is further

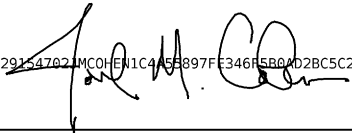
ORDERED that the County Clerk shall maintain NYSCEF Document Numbers 125, 129, and 133 under seal, so that the documents may only be accessible by the parties, their counsel, and authorized court personnel; it is further

ORDERED that the County Clerk will unseal NYSCEF 128, 131, and 132; it is further

ORDERED that Plaintiff shall file redacted versions of NYSCEF 125 and 133 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.

202363291547021MCOHEN1C4A55897FE346F5B0AD2BC5C2922C97


JOEL M. COHEN, J.S.C.

3/29/2023
DATE

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