

G-Z/10 UNP Realty, LLC v SLCE Architects, LLP

2023 NY Slip Op 31009(U)

March 30, 2023

Supreme Court, New York County

Docket Number: Index No. 160818/2019

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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G-Z/10 UNP REALTY, LLC,

Plaintiff,

- v -

SLCE ARCHITECTS, LLP,

Defendant.

INDEX NO. 160818/2019

MOTION DATE 11/28/2022

MOTION SEQ. NO. 004

**DECISION + ORDER ON
MOTION**

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HON. JOEL M. COHEN:

The following e-filed documents, listed by NYSCEF document number (Motion 004) 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 182, 183, 184, 185, 186

were read on this motion to SEAL.

Plaintiff G-Z/10 UNP Realty, LLC (“Plaintiff”) moves for an order sealing and/or redacting NYSCEF docket numbers 116, 136, 137, 138, 139, 140, 148, 149, 150, 153, 154, 155, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178 and 179. For the following reasons, Plaintiff’s motion is **denied without prejudice**.

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 documents for which redactions and sealing are sought were filed in connection with Defendant SLCE Architects, LLP’s (“Defendant”) motion to compel (Mot. Seq. No. 003) documents prepared by or exchanged with non-party Wiss, Janey, Elstner Associates, Inc. (“WJE”). On February 16, 2023, the Court granted in part Defendant’s motion to compel WJE documents and a document-specific privilege log (NYSCEF 190).

The Court has reviewed the Affidavit of Kathryn A. Brandvold (NYSCEF 157) and the eleven documents for which Plaintiff seeks leave to file under seal and redact. The proposed redactions include the entirety of each document save for introductions and signatures. While the documents may contain some confidential or sensitive business information, this information – assuming it warrants confidentiality – can be protected through targeted redactions. Of note, certain documents are more than five years old and contain information that does not appear to be commercially sensitive. For instance, standard terms and conditions do not warrant sealing.

Accordingly, the Court does not find that Plaintiff has satisfied its burden to show “good cause” for sealing or to demonstrate that its proposed redactions are narrowly tailored to protect confidential information (*Shuman v New York Mag.*, 70 Misc 3d 1203(A) [Sup Ct New York County 2020] [*citing Mosallem* and collecting cases]). 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, establish ‘good cause’ or otherwise require granting of the motion (*Id.*, see *Maxim*, 145 AD3d at 518; *Gryphon*, 28 AD3d at 324).

Nevertheless, the Court will direct in this instance that the pertinent documents remain under seal or with redactions and provide Plaintiff with a final opportunity to establish that sealing or targeted redactions are appropriate. In light of the Court’s order directing production of certain WJE documents, Plaintiff is directed to work with Defendant to propose what, if any, documents should be filed under seal or with redactions in connection with any renewed or subsequent motions to seal.

Accordingly, it is:

ORDERED that Plaintiff’s motion to seal is **DENIED WITHOUT PREJUDICE**; it is further

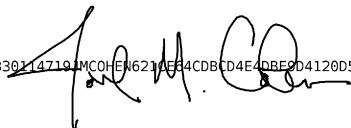
ORDERED that the Clerk shall temporarily maintain NYSCEF documents 116, 136, 137, 138, 139, 140, 148, 149, 150, 153, 154, 155, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178 under seal, so that the document may only be accessible by the parties, their counsel, and authorized court personnel for a period of twenty (20) days from the issuance of this decision and order; it is further

ORDERED that Plaintiff meet-and-confer with Defendant on the scope of any proposed sealing and redactions; it is further

ORDERED that Plaintiff may renew its motion to seal or redact within twenty (20) days of the issuance of this decision and order; 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.

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JOEL M. COHEN, J.S.C.

3/30/2023
DATE

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