

**Tonchi v Advance Mag. Publishers Inc.**

2023 NY Slip Op 31237(U)

April 10, 2023

Supreme Court, New York County

Docket Number: Index No. 653720/2019

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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STEFANO TONCHI,	INDEX NO. <u>653720/2019</u>
Plaintiff,	MOTION DATE <u>N/A</u>
- v -	MOTION SEQ. NO. <u>008</u>
ADVANCE MAGAZINE PUBLISHERS INC., ADVANCE PUBLICATIONS INC.	<b>DECISION + ORDER ON MOTION</b>
Defendants.	
-----X	

HON. JOEL M. COHEN:

The following e-filed documents, listed by NYSCEF document number (Motion 008) 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357 were read on this motion to SEAL.

Defendants Advance Magazine Publishers Inc. (“AMPI”) and Advance Publications, Inc. (“Advance”) (collectively, “Defendants”) move for an order sealing and/or redacting certain documents (NYSCEF 338–350) filed in connection with Plaintiff Stefano Tonchi’s (“Plaintiff”) Omnibus Discovery Motion and Third Parties’ Motion to Quash Subpoenas (Motion Sequence No. 004). This Court previously denied without prejudice Defendants’ application to seal and/or redact these same documents (filed at NYSCEF 231–244) because Defendants sought to seal entire documents without any attempt to isolate the specific portions of those documents that genuinely require sealing (*see* NYSCEF 330 [Order and Decision on Mot. Seq. 005]).

Plaintiff Stefano Tonchi (“Plaintiff”) partially opposes this motion (*see* NYSCEF 355), objecting to the sealing and/or redacting of three documents (NYSCEF 345, 348, 350). For the reasons stated below, Defendants’ motion is **granted**.

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 to NYSCEF 338, 339, 340, 341, 342, 343, 344, 354, 346, 347, 348, 349, and 350 filed in connection with Motion Sequence 004, and finds that they comport with the applicable sealing standards as laid out in *Mosallem*, 76 AD3d at 348-50, and its progeny, in that they contain sensitive information relating to Defendants’ and third parties’ confidential business and personnel information, disclosure of which would damage Defendants’ competitive standing, impede the flow of information between Defendants and its employees in future transactions, and compromise Defendants’ relationship with third-parties who are not parties to this litigation (*see Mosallem*, 76 AD3d 345, 350-51 [“[i]n the

business context, we have allowed for sealing where trade secrets are involved, or where the release of documents could threaten a business's competitive advantage" ]).

Although Plaintiff opposes redacting the specific terms of Plaintiff's proposed employment being negotiated between Plaintiff and Surface Media, LLC, the eventual buyer of W (NYSCEF 345), the redaction of portions of Anna Wintour's deposition transcript relating to the terms of her employment with Condé Nast (NYSCEF 348), and redactions to the testimony relating to the sale of W (NYSCEF 350), the Court finds Plaintiff's arguments unavailing as redactions relating to the sale of W contain confidential business information. Furthermore, Ms. Wintour is a non-party and the details of her employment with Condé Nast are irrelevant to this matter. Defendants have proposed and justified targeted redactions that satisfy the requirements of 22 NYCRR § 216.1 (a). Moreover, the Court notes that the parties reached a settlement in this matter and filed a Stipulation of Discontinuance with Prejudice on June 22, 2022 (*see* NYSCEF 329).

Accordingly, it is:

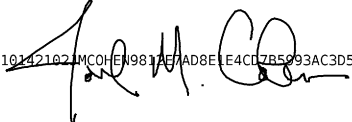
**ORDERED** that motion is **GRANTED**; it is further

**ORDERED** that Defendants shall file public, redacted versions of NYSCEF, 338, 339, 340, 341, 342, 343, 344, 354, 346, 347, 348, 349, and 350 within three (3) business days of the date of this Order; and it is further

**ORDERED** that the Clerk of the Court shall maintain NYSCEF Document Numbers 231, 232, 233, 234, 235, 237, 238, 239, 240, 241, 242, 243, 244, 338, 339, 340, 341, 342, 343, 344, 354, 346, 347, 348, 349, and 350 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 Clerk of the Court shall unseal NYSCEF 236 as this document is not contained in Defendants' renewed motion.

This constitutes the Decision and Order of the Court.

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JOEL M. COHEN, J.S.C.

4/10/2023  
DATE

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