

Lis v Lancaster

2023 NY Slip Op 32430(U)

July 18, 2023

Supreme Court, New York County

Docket Number: Index No. 650855/2019

Judge: Melissa A. Crane

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. MELISSA A. CRANE PART 60M

Justice

-----X

ANDREW J. LIS,

Plaintiff,

- v -

JASON M LANCASTER, DEBBIE LANCASTER, CECIL SIMMONS, DEE CHASE-UNNO, GULF PREMIER LOGISTICS LLC, OVERLAND DISTRIBUTION CO., INC., OVERLAND EXPRESS CO., INC., JAL ENVIRONMENTAL SERVICES PROGRAMS, BANK OF AMERICA NA, JP MORGAN CHASE BANK NA,

Defendant.

-----X

JASON LANCASTER, JAL ENVIRONMENTAL SERVICES PROGRAMS

Plaintiff,

-against-

JAL ENVIRONMENTAL SERVICES PROGRAMS LLC

Defendant.

-----X

DECISION + ORDER ON MOTION

Third-Party Index No. 595376/2019

The following e-filed documents, listed by NYSCEF document number (Motion 017) 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755

were read on this motion to/for

SEAL

In Motion Seq. No. 17, defendants move to redact portions of four documents. Plaintiff opposes only the portion of the motion that seeks to redact part of the second document (Doc 596). The motion is granted as set forth below.

Pursuant to § 216.1 (a) of the Uniform Rules for Trial Courts, this Court may seal or redact a filing "upon a written finding of good cause, which shall specify the grounds thereof." "[T]he court shall consider the interests of the interests of the public as well as of the

parties” in determining whether there is good cause (22 NYCRR § 216 [a]). The Court must balance the risk of privacy concerns stemming from public access to the information against the “compelling public interest in exposure of this information,” if any (*see MBLA Ins. Corp. v Countrywide Home Loans, Inc.*, 2013 WL 450030, *9 (Sup Ct, NY County Jan. 3, 2013)).

The moving party has the burden to set forth compelling circumstances to justify restricting public access and must demonstrate “a sound basis or legitimate need to take judicial action” (*Danco Labs.*, 274 AD2d at 9; *Mosallem v Berenson*, 76 AD3d 345, 348-349 [1st Dept 2010]). Consent to seal does not constitute “good cause.” (*MBLA Ins. Corp. v Countrywide Home Loans, Inc.*, 2012 NY Slip Op 33147[U] 9 [Sup Ct, NY County 2012]), and “there is a broad presumption that the public is entitled to access to . . . court records” (*Mosallem*, 76 AD3d at 348-350).

The Court has reviewed the filings that the defendants seek to redact. Motion Seq. No. 17 is granted. Movants have established good cause to redact the requested information, and much of the information that defendants seek to redact is already protected by 22 NYCRR § 202.5 (e). Specifically, that includes:

- “i. the taxpayer identification number of an individual or an entity, including a social security number, an employer identification number, and an individual taxpayer identification number, except the last four digits thereof;
- ii. the date of an individual's birth, except the year thereof;
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- iv. a financial account number, including a credit and/or debit card number, a bank account number, an investment account number, and/or an insurance account number, except the last four digits or letters thereof”

(22 NYCRR § 202.5 [e] [1] [i], [ii], and [iv]).

Further, defendants establish that the proposed redacted information constitutes confidential and sensitive business information regarding ownership structure of private

companies, bank account information, and tax information for both defendants and non-parties. They also establish that the public would have little or no interest in the information.

Plaintiff's opposition is limited to one line in the second document (Doc 596). This line of information is part of defendant JAL Environmental Services' IRS Form 4562 (Doc 745 at 14). Plaintiff's submissions do not establish that the public would have any interest in this information.

The court has considered the parties remaining contentions and finds them unavailing. Accordingly, it is

ORDERED that Motion Seq. No. 017 is granted; and it is further

ORDERED that within seven (7) business days of the date this Order is served upon the Clerk of the Court, the parties may re-file NYSCEF Doc. Nos. 589, 596, 597, and 598 in defendants' proposed redacted form located at NYSCEF Docs. 744, 746, 748, 750; and upon service of a copy of this Order with notice of entry upon the Clerk of the Court, the Clerk shall permit the above re-filed documents, as well as the sealed/redacted versions submitted in support of this motion (Docs 743-750) to remain in their sealed/redacted form wherever they shall appear in connection with this action. Until further Order of the Court, the Clerk of the Court shall deny access to those unredacted documents to anyone other than the staff of the Clerk or the Court, counsel of record for any party to this case, and any party, provided that the Clerk of the Court shall not seal or redact any documents not referenced in this Order, or as otherwise described below, or as set forth in another Order of this Court.

ORDERED that any redacted document filed in the NYSCEF docket must be accompanied by an unredacted Court Copy (*see* Part Rule 7) at all times; 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; and it is further

ORDERED that such service upon the County Clerk shall be made in accordance with the procedures set forth in the Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases (accessible at the “E-filing” page on the court’s website – www.nycourts.gov/supctmanh).

7/18/2023

DATE


MELISSA A. CRANE, 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