

**Columbia Consultants, LLC v Danucht
Entertainment, LLC**

2023 NY Slip Op 34427(U)

December 12, 2023

Supreme Court, New York County

Docket Number: Index No. 655526/2018

Judge: Andrea Masley

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 48

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COLUMBIA CONSULTANTS, LLC and SCOTT
SARTIANO,

INDEX NO. 65526/2018

Plaintiffs,

MOTION DATE _____

- v -

MOTION SEQ. NO. 016 019

DANUCHT ENTERTAINMENT, LLC, RICHARD AKIVA,
and TKNY GLOBAL, LLC

**DECISION + ORDER ON
MOTION**

Defendants.

-----X

HON. ANDREA MASLEY:

The following e-filed documents, listed by NYSCEF document number (Motion 016) 319, 320, 321, 322, 323, 324, 327, 329

were read on this motion to/for _____ SEAL _____.

The following e-filed documents, listed by NYSCEF document number (Motion 019) 365, 366, 367, 368, 369, 372, 380, 381, 382, 383

were read on this motion to/for _____ SEAL _____.

Upon the foregoing documents, it is

In motion sequence number 016, defendants Danucht Entertainment, LLC (DE) and Richard Akiva move, by order to show cause, pursuant to Section 216.1 of the Uniform Rules for the New York State Trial Courts, to redact portions of NYSCEF Doc No. (NYSCEF) 247.¹ NYSCEF 324 is a redacted version of this document. The motion is unopposed.

In motion sequence number 019, defendants move, by order to show cause, pursuant to Section 216.1 of the Uniform Rules for the New York State Trial Courts, to

¹ NYSCEF 323 is an unredacted copy of this document.
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Motion No. 016 019

redact portions of NYSCEF 346, 349, and 355.² NYSCEF 347, 350, 356, and 369 are redacted versions of these documents. The motion is unopposed.

There is no indication that the press or public have an interest in these motions.

Motion Seq. No. 016

NYSCEF 247 contains a cover letter, defendant Avika's deposition, and an email regarding the deposition and discovery issues. The information sought to be redacted on pages 1, 16, 17, 23, 27 and 31, is the same as or similar to the information in prior motions to seal filed by the defendants and plaintiffs, which the court granted. (NYSCEF 31, Decision and Order [mot. seq. no.002]; NYSCEF 46, Decision and Order [mot. seq. no. 003].) Thus, defendants' motion is granted as to those pages.

Section 216.1(a) of the Uniform Rules for Trial Courts empowers courts to seal documents upon a written finding of good cause. It provides:

“(a) Except where otherwise provided by statute or rule, a court shall not enter an order in any action or proceeding sealing the court records, whether in whole or in part, except 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. Where it appears necessary or desirable, the court may prescribe appropriate notice and opportunity to be heard.”

“Under New York law, there is a broad presumption that the public is entitled to access to judicial proceedings and court records.” (*Mosalle v Berenson*, 76 AD3d 345, 348 [1st Dept 2010] [citations omitted].) The “party seeking to seal court records has the burden to demonstrate compelling circumstances to justify restricting public access” to the documents. (*Id.* at 349 [citations omitted].) Good cause must “rest on a sound

² NYSCEF 368 and 381-383 are unredacted copies of these documents.

basis or legitimate need to take judicial action.” (*Danco Lab, Ltd. v Chemical Works of Gedeon Richter, Ltd.*, 274 AD2d 1, 8 [1st Dept 2000] [internal quotations omitted].)

In the business context, courts have sealed records where the disclosure of documents “could threaten a business's competitive advantage.” (*Mosallem*, 76 AD3d at 350 [citations omitted].) Records concerning financial information may be sealed where there has not been a showing of relevant public interest in the disclosure of that information. (See *Dawson v White & Case*, 184 AD2d 246, 247 [1st Dept 1992].) A party “ought not to be required to make their private financial information public ... where no substantial public interest would be furthered by public access to that information.” (*D'Amour v Ohrenstein & Brown*, 17 Misc 3d 1130[A], 2007 NY Slip Op 52207[U], *20 [Sup Ct, NY County 2007] [citations omitted].)

Defendants have demonstrated good cause to redact specific proprietary financial information on pages 1, 2, 25, 43, 44 and 47. Defendants have an interest in keeping financial information about their business private, and there has been no showing of a legitimate public interest in this information. Similarly, defendants have demonstrated good cause to redact references to their confidential business relationship on pages 33 and 34. During his deposition, defendant Akiva made references to a medical condition and defendants now seek to redact these references on the ground that defendant Akiva's personal medical information is irrelevant to this action. Defendants have demonstrated good cause to redact “Testimony regarding medical condition and related topics.” Akiva's medical condition is not in issue in this action and no legitimate public interest will be served by revealing private information about the defendant Akiva's medical condition. (See *Gottwald v Sebert*, Sup Ct, New

York County, November 8, 2018, Schechter J., Index No. 653118/2014, NYSCEF Doc. No. 1685.) While courts have declined to seal official medical records of a litigant if the litigant has himself placed his health or medical condition in controversy (*Ava v NYP Holdings, Inc.*, 64 AD3d 407, 416 [1st Dept 2009]; *Borek v. Seidman*, 2023 NY Slip Op 30617(U), *2 [Supt Ct, New York County]), this is not the case here as this action relates to a business dispute between the parties and defendant Akvia's health or medical condition is not in controversy.

Defendants provide no reason to redact "References to non-party members of the New York Police Department" other than they are not relevant to this case. Defendants have not stated any reason that this information is confidential or competitively sensitive or cited to any case to support redacting this information. Further, this member of the New York City Police Department is not actually named.

Thus, defendants' motion is granted, in part, and they are directed to refile a redacted copy of NYSCEF 247 in accordance with this decision.

Motion Seq. No. 019

NYSCEF 346 is the affidavit of Jurgen Schreiber, Senior Managing Director of nonparty Katz Group. NYSCEF 349 is plaintiffs' October 26, 2022 responses to defendants' interrogatories. NYSCEF 355 is an email between the parties' counsel regarding discovery issues. Defendants assert that these documents contain sensitive financial information. This court agrees. (*Mosallem*, 76 AD3d at 350-351 [disclosure of information contained in the documents "could threaten a business's competitive advantage"].)

Accordingly, it is

ORDERED that motion sequence number 016 is granted, in part, and the County Clerk is direct to seal NYSCEF Doc. Nos. 247 and 323. Defendants shall publicly e-file and email proposed narrow redactions of NYSCEF 247 in accordance with this decision within 7 days of the date of this order; and it is further

ORDERED that motion sequence number 019 is granted, and the County Clerk is directed to permanently seal NYSCEF Doc. Nos. 346, 349, 355, 368, 381, 382, and 383; and it is further

ORDERED the County Clerk shall restrict access to the sealed documents with access to be granted only to authorized court personnel and designees, the parties and counsel of record in the above-captioned action, and any representative of a party or of counsel of record upon presentation to the County Clerk of written authorization from counsel; and it is further

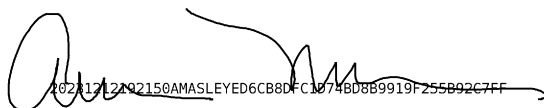
ORDERED that counsel for defendants shall serve a copy of this order upon the Clerk of the Court; and it is further

ORDERED that such service upon the Clerk of the Court and the Clerk of the General Clerk's Office 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 at the address www.nycourts.gov/supctmanh); and it is further

ORDERED that if any party seeks to redact identical information in future filings that the court is permitting to be redacted here, that party shall submit a proposed

sealing order to the court (via SFC-Part48@nycourts.gov and NYSCEF) instead of filing another seal motion; and it is further

ORDERED that this order does not authorize sealing or redacting for purposes of trial.



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12/12/2023

DATE

ANDREA MASLEY, 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