

Engel v International Bus. Machs. Corp.

2024 NY Slip Op 30111(U)

January 9, 2024

Supreme Court, New York County

Docket Number: Index No. 654556/2020

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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THOMAS ENGEL,	INDEX NO.	<u>654556/2020</u>
Plaintiff,	MOTION DATE	_____
- v -	MOTION SEQ. NO.	<u>006</u>
INTERNATIONAL BUSINESS MACHINES CORPORATION,	DECISION + ORDER ON MOTION	
Defendant.		

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HON. ANDREA MASLEY:

The following e-filed documents, listed by NYSCEF document number (Motion 006) 218, 219, 220, 221, 222, 223, 224, 226 were read on this motion to/for _____ SEAL _____.

Plaintiff Thomas Engel alleges in this purported class action, in sum, that defendant International Business Machines Corporation capped commissions paid to its salespeople in violation of its announced policy. (See NYSCEF Doc. No. [NYSCEF] 51, Amended Complaint ¶¶ 1-5.) In motion sequence number 006, defendant moves, pursuant to Uniform Rules for Trial Courts, 22 NYCRR § 216.1, to redact customer names, employee names, and employee serial numbers in NYSCEF 177, 216, and 217.¹ The motion is unopposed. There is no indication that the press or public have an interest in this matter.

¹ NYSCEF 177, 216, and 217 have been filed by plaintiff in support of his motion to certify a class (seq. no. 005). Proposed redactions to NYSCEF 177, 216, and 217 are at NYSCEF 220, 221, and 222, respectively. NYSCEF 217 is already redacted because defendant’s underlying document production included redactions. (NYSCEF 224, Memo at 6-7 [NYSCEF pagination].) Defendant seeks to further redact NYSCEF 217.
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Legal Standard

“Under New York law, 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] [citations omitted].) The public’s right to access is, however, not absolute, and under certain circumstances, “public inspection of court records has been limited by numerus statutes.” (*Id.* at 349.) One of those statutes is section 216.1 (a) of the Uniform Rules for Trial Courts, which empowers courts to seal documents upon a written finding of good cause. It provides:

“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.”

The “party seeking to seal court records has the burden to demonstrate compelling circumstances to justify restricting public access” to the documents. (*Mosallem*, 76 AD3d at 349 [citations omitted].) Good cause must “rest on a sound 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 quotation marks omitted].) Further, 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].)

Discussion

NYSCEF 177 is entitled “[s]preadsheet of salespeople whose commissions were manually adjusted by [defendant]” and lists serial numbers of defendant’s past and

current employees who form a purported subclass, their commission years, plan cycles, and plan types. (NYSCEF 223, sealing chart at 1; NYSCEF 224, Memo at 3 [NYSCEF pagination].) Defendant seeks to redact serial numbers.

NYSCEF 216 and 217 contain excerpts from spreadsheets produced by defendant. (NYSCEF 176, Lee² aff ¶¶ 39-40.) NYSCEF 216 includes a list of claims made between 2014 and 2021 and employee serial numbers. Defendant seeks to redact serial numbers. NYSCEF 217 includes a list of claims made between 2014 and 2022, names of clients associated with certain claims, and employee serial numbers. Defendant seeks to redact client names and employee names and serial numbers.

Defendant fails to show good cause to redact serial numbers in NYSCEF 177, 216, and 217. Defendant does not explain how serial numbers can lead to public disclosure of the employees' compensation information, given that employee names do not appear in these documents. Defendant similarly fails to explain how these serial numbers could reveal the business strategy underlying defendant's compensation calculations.

Further, the motion to redact employee names in NYSCEF 217 is moot, given that employee names are already redacted as they were redacted in defendant's underlying document production pursuant to the parties' stipulation. (NYSCEF 224, Memo at 6-7 [NYSCEF pagination].) However, good cause exists to redact names of defendant's clients in NYSCEF 217, as such information if revealed may threaten defendant's competitive advantage. (*Mosallem*, 76 AD3d at 350.)

Accordingly, it is

² Matthew E. Lee is plaintiff's counsel. (NYSCEF 176, Lee aff ¶ 2.)
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Motion No. 006

ORDERED that the motion granted, in part, to the extent that names of defendant's clients can be redacted in NYSCEF 217, and defendant shall file a properly redacted public copy of NYSCEF 217 within seven days of this order and notify the court when filed by email (sfc-part48@nycourts.gov); and it is further

ORDERED that the County Clerk, upon service to him of this order, shall seal NYSCEF 217 and 222; and it is further

ORDERED that if defendant fails to timely file a properly redacted public copy of NYSCEF 217, the court will direct the County Clerk to unseal NYSCEF 217 and 222; and it is further

ORDERED that County Clerk, upon service to him of this order, shall unseal NYSCEF 216, 220, and 221; and it is further

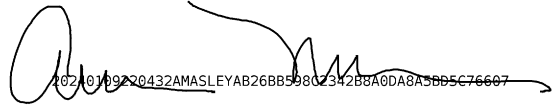
ORDERED the County Clerk shall restrict access to the sealed documents with access to be granted only to authorized court personnel and designees, the parties and counsel of record in the above-captioned action, and any representative of a party or of counsel of record upon presentation to the County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

ORDERED that defendant is to serve a copy of this order on the County Clerk 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); and it is further

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

order to the court (via email to 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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1/9/2024
DATE

ANDREA MASLEY, J.S.C.

CHECK ONE:

<input type="checkbox"/>	CASE DISPOSED		
<input type="checkbox"/>	GRANTED	<input type="checkbox"/>	DENIED

<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION		
<input checked="" type="checkbox"/>	GRANTED IN PART	<input type="checkbox"/>	OTHER

APPLICATION:

<input type="checkbox"/>	SETTLE ORDER
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<input type="checkbox"/>	SUBMIT ORDER
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CHECK IF APPROPRIATE:

<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN
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<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/>	REFERENCE
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