

**Martin v William & Cindy Abrams Family Trust**

2024 NY Slip Op 30165(U)

January 12, 2024

Supreme Court, New York County

Docket Number: Index No. 651174/2022

Judge: Andrea Masley

Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op 30001(U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.

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 48

-----X

<p>TERI MARTIN,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">- v -</p> <p>WILLIAM AND CINDY ABRAMS FAMILY TRUST,        WILLIAM L. ABRAMS, NEIL B. GARFINKEL, and ZAREH        BANDARI,</p> <p style="text-align: center;">Defendants.</p>	<p>INDEX NO.            <u>651174/2022</u></p> <p>MOTION DATE        _____</p> <p>MOTION SEQ. NO.    <u>007</u></p> <p style="text-align: center;"><b>DECISION + ORDER ON        MOTION</b></p>
--	---

-----X

HON. ANDREA MASLEY:

The following e-filed documents, listed by NYSCEF document number (Motion 007) 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211

were read on this motion to/for \_\_\_\_\_ SEAL \_\_\_\_\_.

Upon the foregoing documents, it is

In motion sequence number 007, defendants William and Cindy Abrams Family Trust, Williams L. Abrams, Neil B. Garfinkel and Zareh Bandari move, by order to show cause, pursuant to Section 216.1 of the Uniform Rules for the New York State Trial Courts, to redact NYSCEF Doc No. (NYSCEF) 110, 112, 113, 161 and 162<sup>1</sup>. The motion is unopposed. There is no indication that the press or public have an interest in this matter.

NYSCEF 110 is the transcript of the deposition of Zareh Bandari dated March 15, 2023. NYSCEF 112 is the transcript of the deposition of Williams L. Abrams dated April 20, 2023. NYSCEF 113 is the transcript of the deposition of Neil Bruce Garfinkel dated

<sup>1</sup> Defendants failed to file publicly redacted copies of these documents in accordance with the Part 48 Procedures and instead only filed copies of these document with highlighted proposed redactions under seal as NYSCEF 200, 201, 202, 203 and 204.

March 23, 2023. NYSCEF 161 is an excerpt of Teri Martin's deposition testimony dated January 31, 2023 and NYSCEF 162 is an excerpt of Williams L. Abrams deposition testimony dated April 20, 2023.

## Background

As part of its motion seq. no. 004, the defendants had sought to redact NYSCEF 161-162 and seal NYSCEF 110, 112 and 113 in their entirety. This request was in addition to their request to redact/seal several other documents filed on the record. The court denied that motion to seal without prejudice to defendants to "file an OSC in accordance with this order." (NYSCEF 171, Decision and Order dated July 13, 2023 [mot. seq. nos. 003, 004].) This court denied defendants' request to redact NYSCEF 161-162 as the proposed redactions, albeit narrowly tailored, failed to identify the particular financial information sought to be redacted and provide an explanation for why disclosure of such information would be competitively harmful for the defendants. (*Id.* at 6.) The court declined to seal NYSCEF 110, 112 and 113 in their entirety as defendants provided no basis to seal the entirety of the transcripts. (*Id.* at 7.) Now defendants seek to redact portions of NYSCEF 110, 112, 113, 161 and 162 that purportedly disclose the kind of client-related information that this court held warrants redaction in its decision dated July 13, 2023.

## Discussion

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) [e]xcept 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 the parties. Where it appears necessary or desirable, the court may prescribe appropriate notice and an opportunity to be heard.”

Judiciary Law § 4 provides that judicial proceedings shall be public. “The public needs to know that all who seek the court’s protection will be treated evenhandedly,” and “[t]here is an important societal interest in conducting any court proceeding in an open forum.” (*Baidzar Arkun v Farman-Farma*, 2006 NY Slip Op 30724[U], \*2 [Sup Ct, NY County 2006] [citation 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 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 345, 350 [1st Dept 2010] [citations omitted].)

Defendants seek to redact information about the clients of MSI Management Services, Inc. (MSI), an entity in which the parties are shareholders. This court already held that there exists good cause to redact “MSI’s present or former client names and occupations of clients that could potentially identify them.” (NYSCEF 171, Decision and Order at 6 [mot. seq. nos. 003, 004].) The redactions proposed by defendants to NYSCEF 113, 161 and 162 are narrowly tailored and limited to names and occupations of MSI’s present or former clients. As to NYSCEF 110 and 112, defendants proposed a more expansive set of redactions. In addition to the names and occupations of MSI’s present or former clients that could identify them, defendants have also proposed to

redact the total number of MSI's clients, details of fee arrangements, profitability distributions between different offices and MSI's revenues. Defendants have not provided any explanation for why this information is competitively sensitive. It also bears mentioning that this court has previously denied defendants' request to redact information about the total number of MSI's clients for defendants' failure to explain why such information was competitively sensitive. (*Id.*) Defendants have not demonstrated good cause to redact this information. Thus, defendants' motion to redact NYSCEF 110, 112, 113, 161 and 162 is only granted to the extent the redactions pertain to identifying information (names and occupations) of MSI's present or former clients.

To the extent defendants seek to redact any information in the documents which this decision denies redaction of, they must move by OSC, including descriptions of the particular redactions, what the information covered by each redaction is, and why it is confidential and/or would be competitively harmful to plaintiff if revealed. The defendants should comply with Part 48 procedures in this regard.

Accordingly, it is

ORDERED that motion sequence number 007 is granted in part and the County Clerk is directed to permanently seal NYSCEF 113, 161 and 162; and it is further

ORDERED that defendant shall file publicly redacted copies of these documents in accordance with the Part 48 Procedures

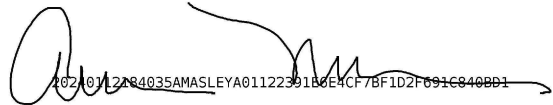
ORDERED that within 30 days of this order, defendants must either file public copies of NYSCEF 110 and 112 with only those redactions in each that are permitted by this order or move by OSC as set forth in this decision; and it is further

ORDERED that counsel for movants 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](http://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](mailto: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.



20240112084035AMASLEYA01122391B6E4CF7BF1D2F691C840BD1

1/12/2024  
DATE

\_\_\_\_\_  
ANDREA MASLEY, J.S.C.

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