

**C2 Elektra Holdings LLC v EDPR NA Distrib.
Generation LLC**

2024 NY Slip Op 31476(U)

April 11, 2024

Supreme Court, New York County

Docket Number: Index No. 656433/2023

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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C2 ELEKTRA HOLDINGS LLC,

Plaintiff,

- v -

EDPR NA DISTRIBUTED GENERATION LLC,

Defendant.

INDEX NO. 656433/2023

MOTION DATE --

MOTION SEQ. NO. 001 005

**DECISION + ORDER ON
MOTION**

-----X

HON. ANDREA MASLEY:

The following e-filed documents, listed by NYSCEF document number (Motion 001) 9, 10, 11, 12, 13, 14, 27, 28, 29

were read on this motion to/for SEAL.

The following e-filed documents, listed by NYSCEF document number (Motion 005) 51, 52, 53, 54, 55, 57, 60, 61, 62, 63, 64, 65

were read on this motion to/for SEAL.

In motion sequence 001, plaintiff C2 Electra Holdings LLC moves by order to show cause, pursuant to Section 216.1 of the Uniform Rules for the New York State Trial Courts, to redact the complaint (NYSCEF Doc. No. [NYSCEF] 2), Third Amended and Restated Limited Liability Company Agreement of defendant EDPR NA Distributed Generation LLC¹ (NYSCEF 3), letters between the parties regarding plaintiff's audit demand (NYSCEF 4-7), as well as a brief and attorney affirmation in support of this motion (NYSCEF 10-11).² The motion is unopposed.

¹ Defendant was initially called C2 Omega LLC and renamed EDPR NA Distributed Generation LLC. (NYSCEF 2, Complaint ¶ 5.)

² The following pairs are unredacted copies of identical documents: NYSCEF 2 and 15, NYSCEF 3 and 16, NYSCEF 4 and 17, NYSCEF 5 and 18, NYSCEF 6 and 19, NYSCEF 7 and 20.

In motion sequence 005, defendant, moves by order to show cause, pursuant to Section 216.1 of the Uniform Rules for the New York State Trial Courts, to redact its answer (NYSCEF 34, 64). The parties stipulated to the proposed redactions. (NYSCEF 63, Stipulation). There is no indication that the public or press has an interest in this matter.

“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].)

Motion Sequence 001

Plaintiff has demonstrated good cause to redact the complaint and exhibits thereto (NYSCEF 2-7) as proposed. The proposed redactions are tailored to protect sensitive business information pertaining to defendant’s operating agreement. Since the publicly available redacted copies of these documents have already been filed as NYSCEF 21-26, plaintiff need not refile the public copies.

As to NYSCEF 10 and 11, the brief and attorney affirmation, plaintiff has subsequently filed an amended brief and amended attorney affirmation in a publicly available form (NYSCEF 27-28). Plaintiff did not include these documents in the sealing chart. (NYSCEF 29, chart.) On their face, these documents contain no sensitive business information. Thus, good cause has not been shown to seal NYSCEF 10 and 11.

Motion Sequence 005

Defendant has demonstrated good cause to redact its answer (NYSCEF 34, 64) as proposed. The proposed redactions are narrowly tailored to protect sensitive business information pertaining to defendant’s operating agreement. Since the publicly available redacted copy of the answer has already been filed as NYSCEF 65, defendant need not refile the public copy.

Accordingly, it is

ORDERED that motion sequence 001 is granted, in part; and it is further

ORDERED that the County Clerk, upon service on him of this order, shall seal NYSCEF 2, 3, 4, 5, 6, 7, 15, 16, 17, 18, 19, 20; and it is further

ORDERED that the County Clerk, upon service on him of this order, shall unseal NYSCEF 10 and 11; and it is further

ORDERED that motion sequence 005 is granted; and it is further

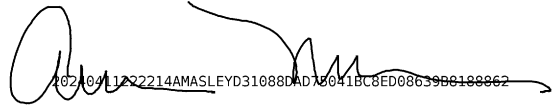
ORDERED that the County Clerk, upon service on him of this order, shall seal NYSCEF 34 and 64; and it is further

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 movant shall serve a copy of this order on the County Clerk in accordance with the procedures set forth in the Protocol on Courthouse County Clerk Procedures for Electronically Filed Cases; 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.



4/11/2024

DATE

ANDREA MASLEY, J.S.C.

CHECK ONE:

CASE DISPOSED

GRANTED

SETTLE ORDER

INCLUDES TRANSFER/REASSIGN

DENIED

NON-FINAL DISPOSITION

GRANTED IN PART

SUBMIT ORDER

FIDUCIARY APPOINTMENT

OTHER

REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: