

MH Sub I, LLC v Muehter

2024 NY Slip Op 31837(U)

May 22, 2024

Supreme Court, New York County

Docket Number: Index No. 654956/2023

Judge: Nancy M. Bannon

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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. NANCY M. BANNON PART 61M

Justice

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INDEX NO. 654956/2023

MH SUB I, LLC d/b/a INTERNET BRANDS, WEBMD
HEALTH CORP., and WEBMD LLC f/k/a WEBMD, INC.,

MOTION DATE 05/20/2024

Plaintiffs,

MOTION SEQ. NO. 007

- v -

VINCENT MUEHTER,

**DECISION + ORDER ON
MOTION**

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 007) 107, 108, 109, 110, 111, 112, 123, 124, 125, 128

were read on this motion to/for SEAL.

In this breach of contract action, the plaintiffs, former employers of the defendant, move by order to show cause pursuant to 22 NYCRR 216.1(a) to redact portions of the following documents: the plaintiffs’ proposed Second Amended Complaint (the “SAC”) (NYSCEF Doc. No. 104), the redline comparison between the plaintiffs’ proposed SAC and First Amended Complaint (NYSCEF Doc. No. 105), and the plaintiffs’ Opposition Brief to Defendant’s Motion to Dismiss Plaintiffs’ First Amended Complaint and In Support of Motion to File the Second Amended Complaint (NYSCEF Doc. Nos. 100, 102) (collectively, the “Confidential Documents”). On April 17, 2024, the court granted the plaintiffs’ request for a TRO to keep the unredacted versions of the Confidential Documents temporarily under seal pending a decision on the instant motion. The defendant opposes the motion. The motion is denied.

Pursuant to 22 NYCRR 216.1(a), “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.” The Appellate Division, First Department, has emphasized that “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). Because “confidentiality is clearly the exception, not the rule” (Matter of Hofmann, 284 AD2d 92, 93–94 [1st Dept. 2001]), that Court has authorized sealing “only in strictly limited circumstances.” Gryphon Dom. VI, LLC v APP Intl. Fin. Co., 28 AD3d 322, 325 (1st Dept. 2006); see Mosallem v Berenson, supra.

The burden is on the party seeking to seal court records to establish “good cause.” Maxim, Inc. v Feifer, 145 AD3d 516, 517 (1st Dept. 2017). “Since there is no absolute definition, a finding of good cause, in essence, ‘boils down to ... the prudent exercise of the court’s discretion.’” Applehead Pictures, LLC v Perelman, 80 AD3d 181, 192 (1st Dept. 2010), quoting Mancheski v Gabelli Group Capital Partners, 39 AD3d 499, 502 (2nd Dept. 2007) (some internal quotation marks and citation omitted). In the business context, good cause may be established “where trade secrets are involved (Matter of Crain Communications, Inc., 135 AD2d 351, 352 [1st Dept. 1987]), or where the release of documents could threaten a business’s competitive advantage.” Mosallem v Berenson, supra at 350, citing Matter of Twentieth Century Fox Film Corp., 190 AD2d 483, 488 (1st Dept. 1993); see Vergara v Mission Capital Advisors, LLC, 187 AD3d 495 (1st Dept. 2020) (noting as bases for sealing that a document contains “trade secrets, confidential business information, or proprietary information”). However, “[c]onclusory claims of the need for confidentiality ... [are] not ... sufficient bas[es] for a sealing order” (Matter of Hofmann, supra at 93-94), and “the court will not approve wholesale sealing of [court] papers, even when both sides to the litigation request sealing.” Applehead Pictures, LLC v Perelman, supra (citations omitted); see Gryphon Dom. VI, LLC v APP Intl. Fin. Co., supra; Liapakis v Sullivan, 290 AD2d 393 (1st Dept. 2002); Matter of Hofmann, supra. That is, a party’s own “designation of the materials as confidential or highly confidential is not controlling on the court’s determination whether there is good cause to seal the record pursuant to 22 NYCRR 216.1.” Eusini v Pioneer Electronics (USA), Inc. 29 AD3d 623, 625 (2nd Dept. 2006); see Mosallem v Berenson, supra. Even where there is a proper basis for sealing, redaction is favored over sealing of an entire document or record. See Vergara v Mission Capital Advisors, LLC, supra; Danco Laboratories, Ltd. v Chemical Works of Gedeon Richter, Ltd., 274 AD2d 1 (1st Dept. 2000).

The plaintiffs seek to maintain redactions applied to portions of paragraphs 81 and 85 of the proposed SAC and the redline comparison thereof to the First Amended Complaint, as well as portions of the plaintiffs’ Opposition Brief to Defendant’s Motion to Dismiss Plaintiffs’ First

Amended Complaint and In Support of Motion to File the Second Amended Complaint that quote the redacted portions of those paragraphs. The relevant portions of paragraph 81 of the proposed SAC quotes from an email drafted by non-party Doximity, Inc. board member Phoebe Yang, recounting her conversations with the defendant. The portions of paragraph 85 of the proposed SAC that the plaintiffs seek to redact references the titles of slides in a purportedly “highly sensitive” PowerPoint presentation but does not disclose the content of those slides.

The plaintiffs contend that these redactions are necessary to protect “trade secret and proprietary information for [their] M&A and investment strategies, presentation of curated information to specific customers, marketing techniques and tactics . . . market research, and deployment of new technologies.” They further contend that disclosure of this information, in which the public has little to no legitimate interest, would harm their competitive advantage by “providing direct competitors with a roadmap of [the plaintiffs’] highly proprietary business information, including technology and product development, customer relationships, competitive strategy and pricing, and information from high-level, confidential discussions.”


To be sure, courts have found a compelling interest in the non-disclosure of trade secrets (see Gryphon Dom. VI, LLC v APP Intl. Fin. Co., supra; Crain Comm., Inc. v Hughes, 135 AD2d 351 [1st Dept. 1987]), and in sealing information that is “proprietary” because it relates to “the nature of current or future business strategies,” such that disclosure “could harm [a] private corporation’s competitive standing” (Mancheski v Gabelli Group Capital Partners, supra at 502-03). Here, however, the plaintiffs fail to meet their burden of demonstrating “good cause” for the subject redactions. Other than a memorandum of law in support of the request to seal, the motion is accompanied solely by an attorney affirmation that merely attaches copies of the Confidential Documents with proposed redactions. No affidavits are submitted by persons with personal knowledge of the matters discussed in the portions of the subject paragraphs that the plaintiffs seek to redact. Instead, the plaintiffs offer mere conclusory assertions, without meaningful explanation, that the information to be redacted is “sensitive,” “proprietary,” and “confidential,” and that its disclosure will “harm [their] competitive advantage.” However, such “[c]onclusory claims of the need for confidentiality . . . [are] not . . . sufficient bas[es] for a sealing order.” Matter of Hofmann, supra at 93-94.

Moreover, the court, having reviewed the plaintiffs' proposed redactions, does not discern the type of highly sensitive, proprietary information that the plaintiffs describe. As noted, the portion of paragraph 85 that the plaintiffs seek to redact is merely a list of titles for slides in a PowerPoint presentation that does not disclose the content or nature of those slides to any degree. As for the relevant portions of paragraph 81, they appear to principally consist of the defendant's discussion with Yang of general industry information and his experiences working at plaintiff WebMD. While some of this discussion broadly references matters of business strategy, these statements are sufficiently generalized and non-specific to satisfy the court that they do not disclose truly "proprietary" information warranting sealing.

Accordingly, it is

ORDERED that the plaintiffs' motion to seal documents is denied.

This constitutes the Decision and Order of the court.



NANCY M. BANNON, J.S.C.
HON. NANCY M. BANNON

5/22/2024
DATE

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