

Barons Media, LLC v Shapiro Legal Group, PLLC

2024 NY Slip Op 33242(U)

September 12, 2024

Supreme Court, New York County

Docket Number: Index No. 652481/2023

Judge: Joel M. Cohen

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SUPREME COURT OF THE STATE OF NEW YORK
 COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 03M

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BARONS MEDIA, LLC,	INDEX NO.	<u>652481/2023</u>
Plaintiff,	MOTION DATE	<u>05/31/2024</u>
- v -	MOTION SEQ. NO.	<u>005</u>
SHAPIRO LEGAL GROUP, PLLC,		
Defendant.	DECISION + ORDER ON MOTION	

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HON. JOEL M. COHEN:

The following e-filed documents, listed by NYSCEF document number (Motion 005) 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230 were read on this motion to SEAL.

Plaintiff Barons Media, LLC (“Plaintiff”) moves for an order sealing and/or redacting specific information designated as “confidential” by Defendant Shapiro Legal Group, PLLC (“Shapiro”) and the defendants in the underlying action pending in Florida (the “Florida Action”), pursuant to a Stipulated Confidentiality Order in the Florida action (*see* NYSCEF 43) (the “Florida Confidentiality Order”), that were attached to, and referenced in, Barons’ Complaint and moving papers in support of its (now withdrawn) Motion to Compel Discovery (Mot. Seq. 003). The documents subject to this motion were filed by Plaintiff at NYSCEF 1, 55, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 75, 76, 77, 79, 84, 92, and 93. Defendant filed an Affirmation stating that it does not oppose Plaintiff’s Motion, but that additional redactions are necessary to the Complaint, and to two supporting documents filed in Mot. Seq. 003 (NYSCEF 1, 55, 84) (*see* NYSCEF 223 [“Castanaro Affirm”]). For the following reasons, Plaintiff’s motion is granted. Defendant’s request for additional redactions is granted in part.

Pursuant to § 216.1 (a) of the Uniform Rules for Trial Courts, this Court may seal a filing “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” (22 NYCRR § 216.1 [a]).

The Appellate Division 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]). “Since the right [of public access to court proceedings] is of constitutional dimension, any order denying access must be *narrowly tailored to serve compelling objectives*, such as a need for secrecy that outweighs the public's right to access” (*Danco Labs., Ltd. v Chemical Works of Gedeon Richter, Ltd.*, 274 AD2d 1, 6 [1st Dept 2000] [emphasis added]; *see also, e.g. Gryphon Dom. VI, LLC v APP Intern. Fin. Co., B.V.*, 28 AD3d 322, 324 [1st Dept 2006]). “Furthermore, because confidentiality is the exception and not the rule, ‘the party seeking to seal court records has the burden to demonstrate compelling circumstances to justify restricting public access’” (*Maxim, Inc. v Feifer*, 145 AD3d 516, 517 [1st Dept 2016] [citations omitted]).

Here, Plaintiff proposed the redactions of NYSCEF 1, 55, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 75, 76, 77, 79, 84, 92, and 93 (proposed redactions filed at NYSCEF 178-199) due to the presence of information that was marked “confidential” pursuant to the Florida Confidentiality Order. Defendant does not provide any further basis for the confidentiality designations. While Defendant’s assertion of confidentiality does not, by itself, require granting of the motion (*see, e.g., Maxim*, 145 AD3d at 518; *Gryphon*, 28 AD3d at 324), since one of the allegations in this action is misappropriation of confidential information, granting the proposed redactions while this case is pending is appropriate.

As to Defendant's additional proposed redactions of the Complaint, and the Affirmation and Affidavit filed in connection with Mot. Seq. 003 (proposed redactions filed at NYSCEF 227, 228, and 229), the proposed additional redactions to the Complaint are denied. Plaintiff proposed limited redactions, while Defendant's proposed redactions are much more extensive without adequate explanation to redact large portions of a pleading. The proposed additional redactions to the Affirmation and Affidavit are granted for the same reasons stated above. The parties are directed to confer in order that Plaintiff may file these two documents with the combined redactions.

Nothing in this order shall be construed as ruling on the merits of any claims, allegations, or disputes in this action or the related Florida Action. The Court reserves the right to reevaluate these redactions as this case progresses.

Accordingly, it is:

ORDERED that the Motion to Seal and/or Redact is **GRANTED**; it is further

ORDERED that the County Clerk shall maintain NYSCEF Document Numbers 1, 55, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 75, 76, 77, 79, 84, 92, 93, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 227, 228, and 229 under seal, so that the documents may only be accessible by the parties, their counsel, and authorized court personnel; it is further

ORDERED that Plaintiff is directed to file the **redacted versions** of the above listed documents within seven (7) days of the date of this Order; it is further

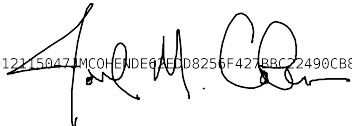
ORDERED as it related to future submissions, made by any party, that contain subject matter that the Court has authorized to be sealed by this Order, parties may file a joint stipulation, to be So Ordered, which will authorize the filing of such future submissions to be

filed in redacted form on NYSCEF, provided that an unredacted copy of any redacted document is contemporaneously filed under seal; and it is further

ORDERED Plaintiff shall serve a copy of this Order upon the County Clerk with notice of entry; it is further

ORDERED that service upon the County Clerk 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)]; and it is further

ORDERED that nothing in this Order shall be construed as authorizing the sealing or redactions of any documents or evidence to be offered at trial.

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JOEL M. COHEN, J.S.C.

9/12/2024

DATE

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