

**C2 Elektra Holdings LLC v EDPR NA Distributed
Generation LLC**

2024 NY Slip Op 33535(U)

September 28, 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. 008 011 013

**DECISION + ORDER ON
MOTION**

-----X

HON. ANDREA MASLEY:

The following e-filed documents, listed by NYSCEF document number (Motion 008) 91, 92, 93, 94, 97, 100, 101, 102, 104

were read on this motion to/for SEAL

The following e-filed documents, listed by NYSCEF document number (Motion 011) 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 129

were read on this motion to/for SEAL

The following e-filed documents, listed by NYSCEF document number (Motion 013) 160, 161, 162, 163, 164, 167

were read on this motion to/for SEAL

Motion sequence 008

In motion sequence number 008, plaintiff C2 Elektra Holdings LLC moves pursuant to the Uniform Rules of the New York State Trial Courts (22 NYCRR) § 216.1 to redact NYSCEF Doc. No. [NYSCEF] 77¹ (Plaintiff Memo of Law in support of motion

¹ NYSCEF 77 is refiled at NYSCEF 84 with plaintiff's proposed redactions. A redacted copy is publicly available at NYSCEF 88.

for summary judgment), NYSCEF 79² (Third Amended and Restated Limited Liability Company Agreement [LLCA]), NYSCEF 80³ (Audit demand). The motion is unopposed.

Motion sequence 011

In motion sequence number 011, defendant EDPR NA Distributed Generation LLC moves pursuant to the Uniform Rules of the New York State Trial Courts (22 NYCRR) § 216.1 to redact NYSCEF 115⁴ (Memo of Law in opposition to Plaintiff's motion for Summary Judgment), NYSCEF 117⁵ (affirmation of Andrew Hicks in opposition to Plaintiff's motion for Summary Judgment), NYSCEF 119⁶ (affirmation of Thomas Cordrey in opposition to Plaintiff's motion for Summary Judgment). The motion is unopposed.

Motion sequence 013

In motion sequence number 013, defendant moves pursuant to the Uniform Rules of the New York State Trial Courts (22 NYCRR) § 216.1 to redact NYSCEF 159⁷ (affirmation of Thomas Cordrey in support of motion to seal). The motion is unopposed.

"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,

² NYSCEF 79 is refiled at NYSCEF 86 with plaintiff's proposed redactions. A redacted copy is publicly available at NYSCEF 89.

³ NYSCEF 80 is refiled at NYSCEF 87 with plaintiff's proposed redactions. A redacted copy is publicly available at NYSCEF 90.

⁴ NYSCEF 115 is refiled at NYSCEF 123 with defendant's proposed redactions. A redacted copy is publicly available at NYSCEF 116.

⁵ NYSCEF 117 is refiled at NYSCEF 125 with defendant's proposed redactions. A redacted copy is publicly available at NYSCEF 118.

⁶ NYSCEF 119 is refiled at NYSCEF 127 with defendant's proposed redactions. A redacted copy is publicly available at NYSCEF 120.

⁷ A redacted copy is publicly available at NYSCEF 164.

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.”

Plaintiff has demonstrated good cause to redact NYSCEF 77 and 80. The proposed redactions are tailored to protect sensitive business information pertaining to the LLCA Agreement. Thus, motion sequence number 008 is granted as to NYSCEF 77 and 80. In its decision on motion sequence 001 and 005, the court permitted the same redactions to those sought as to NYSCEF 79. (NYSCEF 66, Decision and Order at 3, [mot. seq. nos. 001, 005].) For the reasons stated in the earlier decision (*id.* at 3), motion sequence number 008 is granted as to NYSCEF 79.

Defendant has demonstrated good cause to redact NYSCEF 115, 117, and 119. The proposed redactions are tailored to protect sensitive business information pertaining to the terms of the LLCA Agreement and financial records of the defendant. Thus, motion sequence number 011 is granted as to NYSCEF 115, 117, and 119.

Defendant has demonstrated good cause to redact NYSCEF 159. The proposed redactions are tailored to protect sensitive business information pertaining to the terms of the LLCA Agreement and financial records of the defendant. Thus, motion sequence 013 is granted as to NYSCEF 159.

Accordingly, it is

ORDERED that motion sequence number 008 is granted and the County Clerk, upon service of this order, shall permanently seal NYSCEF 77, 84, 86, 87, 79, and 80; and it is further

ORDERED that motion sequence number 011 is granted and the County Clerk, upon service of this order, shall permanently seal NYSCEF 115, 123, 117, 125, 119, and 127; and it is further

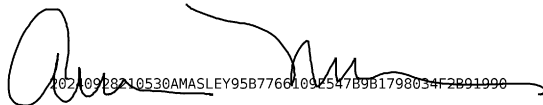
ORDERED that motion sequence number 013 is granted and the County Clerk, upon service of this order, shall permanently seal NYSCEF 159; and it is further

ORDERED the New York 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 plaintiff and defendant serve a copy of this order upon the Clerk of the Court and the Clerk of the General Clerk's Office 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); 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.



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9/28/2024
DATE

ANDREA MASLEY, J.S.C.

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