

**Digital Seven LLC v El-Mohmouh**

2024 NY Slip Op 33764(U)

October 8, 2024

Supreme Court, New York County

Docket Number: Index No. 652637/2021

Judge: Debra A. James

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  
NEW YORK COUNTY**

**PRESENT: HON. DEBRA A. JAMES**

**PART 59**

*Justice*

-----X

**INDEX NO. 652637/2021**

DIGITAL SEVEN LLC and BRENDAN COCHRANE,

**MOTION DATE 05/08/2024**

Plaintiffs,

**MOTION SEQ. NO. 006 007**

- v -

KARIMA EL-MOHMOUH, as Administrator of the Estate of Joseph Bryan a/ka/a Taheim Bryan, Deceased, ROB SIMMONS, FIRST BORN PRODUCTION LLC, and JARS PRODUCTIONS, INC.,

**DECISION + ORDER ON MOTION**

Defendants.

-----X

The following e-filed documents, listed by NYSCEF document number (Motion 006) 55, 56, 57, 58, 59, 60, 61, 75, 76, 77, 78, 79

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

The following e-filed documents, listed by NYSCEF document number (Motion 007) 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74

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

As explained in the accompanying memorandum opinion, the court, having determined, in accordance with Part 216 of the Uniform Rules for the Trial Courts, that good cause exists for the sealing in part of the file in this action and the grounds therefor having been specified, it is now

ORDERED that the Clerk of the Court is directed, upon service on him of a copy of this order with notice of entry, to seal NYCEF Document Numbers 053 and 058 in the docket of the New York State Courts Electronic Filing System and to separate these

documents and to keep them separate from the balance of the file in this action; and it is further

ORDERED that thereafter, or until further order of the court, the Clerk of the Court shall deny access to such sealed documents to anyone (other than the staff of the Clerk or the court) except for counsel of record for any party to this case and any party; and it is further

ORDERED that service upon the Clerk of the Court 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 the motion of defendants Karima El-Mohmouh, as Administrator of the Estate of Joseph Bryan, and First Born Production LLC to hold plaintiff Brendan Cochrane in contempt for disobeying the order dated March 28, 2024 (motion sequence number 007) of this court is denied, with leave to re-apply should plaintiff Cochrane engage in any communication, by whatever method, which communication is not through any attorney retained to appear on his behalf in this action, with any of defendants, whether individual or corporate, or with their attorney appearing on such defendants behalf; and it is further

ORDERED that counsel are directed to appear via Microsoft Teams for oral argument of motion sequence numbers 001 and 002 on November 13, 2024, 2:30 PM.

DECISION/MEMORANDUM OPINION

Plaintiff's posting of the subject correspondence with attachments (NYSCEF Document Number 053), which were exhibits neither to any motion nor any papers in opposition to any motion in the herein action, and that concerned an unrelated and separate proceeding, was entirely gratuitous. His reposting such document with attachments in response to the herein motion to seal (NYSCEF Document Number 058) does not rectify its immateriality to the issues joined in this action. On such basis, movants have shown "good cause", pursuant to 22 NYCRR § 216.1, for sealing such records, which records are completely extraneous to matters before this court, and posting of which are procedurally impermissible.

New York Judiciary Law § 90(10) states, in pertinent part,

"Any statute or rule to the contrary notwithstanding, all papers, records and documents upon the application or examination of any person for admission as an attorney and counsellor at law and upon any complaint, inquiry, investigation or proceeding relating to the conduct or discipline of an attorney or attorneys, shall be sealed and be deemed private and confidential."

Plaintiff posits that at least with respect to the application of New York Judiciary Law § 90(10) to the instant matter, such provision has been held to be an unconstitutional violation of

his First Amendment rights, citing Civil Rights Corps v Pestana, Not Reported in Fed. Supp., 2022 WL 2118191 (Marrero, US Dist Judge, SDNY). This court does not reach or consider the constitutional issue as this decision is decided on other grounds, i.e., 22 NYCRR § 216.1. See Syquia v Board of Educ., of Harpursville Cent. School Dist., 80 NY2d 531, 535 (1992).

With respect to the motion of defendants Karima El-Mohmouh, as Administrator of the Estate of Joseph Bryan, and First Born Production LLC to hold plaintiff in contempt, this court finds that plaintiff's phone call to defendant Karima El-Mohmouh did not cause the moving defendants to suffer prejudice to any of their substantial rights, and that the incurring of unnecessary attorney's fees does not constitute such prejudice. Compare McCormick v Axelrod, 59 NY2d 574, 587 (1983). On such basis, the court declines to hold plaintiff in contempt of its March 28, 2024 order. However, plaintiff is now on notice that disobedience of such order in the future, which, in open court, he promised to refrain from doing, may result in his being held in contempt. See Simens v Darwish, 104 AD3d 465 (1<sup>st</sup> Dept 2013).

*Debra A. James*

202410081438370JAMES631192DFAEB14FBB9D57E2B21581EB4B

10/8/2024

DATE

DEBRA A. JAMES, 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