

Salas v Consolidated Edison Co. of N.Y., Inc.

2024 NY Slip Op 34073(U)

November 19, 2024

Supreme Court, New York County

Docket Number: Index No. 154614/2015

Judge: Lynn R. Kotler

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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. LYNN R. KOTLER PART 08

Justice

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JENNIFER SALAS, JENNIFER SALAS, ANTIOCO SALAS,
ROSA M. SALAS, JESSICA BARRIOS-AGUIRRE, JESSICA
BARRIOS-AGUIRRE, OSCAR HERNANDEZ BARRIOS,
JOSE CECILIO HERNANDEZ HERNANDEZ,

Plaintiff,

INDEX NO. 154614/2015

MOTION DATE 11/14/2024

MOTION SEQ. NO. 005

- v -

CONSOLIDATED EDISON COMPANY OF NEW YORK,
INC., THE CITY OF NEW YORK, KAORU DEMLER
MURMATSU, THE SPANISH CHRISTIAN CHURCH,
INC., THE HALLEN CONSTRUCTION CO., INC.,

Defendant.

**DECISION + ORDER ON
MOTION**

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JENNIFER SALAS, JENNIFER SALAS, ANTIOCO SALAS,
ROSA M. SALAS, JESSICA BARRIOS-AGUIRRE, JESSICA
BARRIOS-AGUIRRE, OSCAR HERNANDEZ BARRIOS,
JOSE CECILIO HERNANDEZ HERNANDEZ,

Plaintiff,

INDEX NO. 152327/2017

- v -

PLUMBING WORKS, INC.

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 005) 88, 89, 90, 91, 92, 93, 94

were read on this motion to/for SEAL.

Upon the foregoing documents, it is **ORDERED** that defendant's application to seal is granted as follows.

Defendant ConEd moves to seal certain portions of the court file, filed under Index Numbers 154614/2015 and 152327/2017, to wit, portions of proposed Compromise Orders, the Verified Petitions of Jessica Barrios-Aguirre dated September 25, 2024 and the Attorney Affirmations of

Emil Samuels, Esq., counsel for plaintiffs, dated September 25, 2024, omitted the amounts which the parties have agreed upon to settle this matter. The application has been submitted on consent of plaintiffs and without opposition from any other party.

As a general rule, the public is entitled to access to judicial proceedings and court records (*Mosallem v. Berenson*, 76 AD3d 345 [1st Dept 2010] citing *Mancheski v. Gabelli Group Capital Partners*, 39 AD3d 499 [1st Dept 2007]). The public's right to access, however, is not absolute (*id. citing Danco Laboratories, Ltd. v. Chemical Works of Gedeon Richter, Ltd.*, 274 AD2d 1 [2000]).

Pursuant to 216.1(a) of the Uniform Rules for Trial Courts (22 NYCRR 216.1[a]):
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.

“Although the term ‘good cause’ is not defined, ‘a sealing order should clearly be predicated upon a sound basis or legitimate need to take judicial action’” (*Mosallem, supra* at 349, quoting *Gryphon Dom. VI, LLC*, 28 AD3d 322, 325 [1st Dept 2006]; see also *Abe v. New York University*, 169 AD3d 445 [1st Dept 2019]). The party seeking to seal court records must demonstrate compelling circumstances to justify restricted public access (*Mancheski, supra* at 502; see also *Maxim, Inc. v. Feifer*, 145 AD3d 516 [1st Dept 2016]; see also *Wilder v. Fresenius Medical Care Holdings, Inc.*, 175 AD3d 406 [1st Dept 2019] [“plaintiff has failed to make a showing of a substantial privacy right that outweighs the customary and constitutionally-embedded presumption of openness in judicial proceeding”]). The First Department, however,

has been reluctant to allow the sealing of court records, even when both parties have presented a joint application (*see i.e. Gryphon Domestic VI, LLC v. APP Intern. Finance Co., B.V.*, 28 AD3d 322 [1st Dept 2006]).

The court has reviewed the parties' submissions and finds that sealing and redaction is warranted since the information which the parties seek to keep confidential would necessarily impact ongoing settlement discussions in other actions pending within the encompassing coordinated action under Case Management Number 780000/15. Moreover, the court agrees with the parties that there is limited public interest in the settlement amounts agreed by the parties and that the parties' interest in keeping this information confidential outweighs the public's presumptive right to access to the court's file.

Accordingly, it is hereby **ORDERED** that this motion is granted to the extent that the Compromise Orders submitted in this action to the court, which have been signed on even date, along with the Verified Petitions of Jessica Barrios-Aguirre dated September 25, 2024 and the Attorney Affirmations of Emil Samuels, Esq., shall be marked sealed by the Clerk of the Court, who shall separate these documents and keep them separate from the balance of the file under Index Numbers 154614/2015 and 152327/2017; and it is further

ORDERED that thereafter, or until further order of the court, the Clerk of the Court shall deny access to the said 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 parties shall file redacted versions of the documents sealed herein on NYSCEF within 10 days as consistent with this decision and order.

Any requested relief not expressly addressed herein has nonetheless been considered and is expressly denied and this constitutes the decision and order of the court.

11/19/2024
DATE

LYNN R. KOTLER, J.S.C.

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