

CWCapital Invs. LLC v CWCapital Colbalt VR Ltd.

2024 NY Slip Op 34512(U)

December 24, 2024

Supreme Court, New York County

Docket Number: Index No. 652092/2018

Judge: Andrea Masley

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 48

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CWCAPITAL INVESTMENTS LLC and GALAXY
ACQUISITION LLC,

Plaintiffs,

- v -

CWCAPITAL COLBALT VR LTD., OCH-ZIFF CAPITAL
MANAGEMENT GROUP LLC, OZ MANAGEMENT L.P.,
OZ MASTER FUND, LTD., OZ ENHANCED MASTER
FUND, LTD., OZ CREDIT OPPORTUNITIES MASTER
FUND, LTD., OZ GC OPPORTUNITIES MASTER FUND,
LTD., OZSC, L.P., CARBOLIC, LLC, OCH-ZIFF HOLDING
CORPORATION, MERRILL LYNCH, and PIERCE,
FENNER & SMITH INCORPORATED,

Defendants.

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INDEX NO. 652092/2018

MOTION DATE -

MOTION SEQ. NO. 028

**DECISION + ORDER ON
MOTION**

HON. ANDREA MASLEY:

The following e-filed documents, listed by NYSCEF document number (Motion 028) 911, 912, 913, 914, 915, 916, 924, 925

were read on this motion to/for SEAL.

In motion sequence number 028, nonparty Sculptor Capital Management, Inc. (Sculptor) moves pursuant to the Uniform Rules of the New York State Trial Courts (22 NYCRR) § 216.1 to redact the following documents:

1. Blair Wallace’s affirmation (NYCSEF Doc. No. [NYSCEF] 617, 738, 915)¹
2. Matthew Tuten’s affirmation (NYSCEF 618, 737, 915)²
3. CWCapital memorandum of law (NYSCEF 744, 915)³
4. CWCapital opposition (NYSCEF 756, 915)⁴

¹ A publicly redacted copy is filed at NYSCEF 916.

² A publicly redacted copy is filed at NYSCEF 916.

³ A publicly redacted copy is filed at NYSCEF 916.

⁴ A publicly redacted copy is filed at NYSCEF 916.

5. CWCapital reply (NYSCEF 764, 915)⁵

The motion is unopposed. There is no indication that the press or public have an interest in this matter.

Section 216.1(a) of the Uniform Rules for Trial Courts empowers courts to seal documents upon a written finding of good cause. It provides:

“(a) [e]xcept 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 the parties. Where it appears necessary or desirable, the court may prescribe appropriate notice and an opportunity to be heard.”

“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 “party seeking to seal court records has the burden to demonstrate compelling circumstances to justify restricting public access” to the documents. (*Id.* at 349 [citations omitted].) Good cause must “rest on a sound basis or legitimate need to take judicial action.” (*Danco Lab, Ltd. v Chemical Works of Gedeon Richter, Ltd.*, 274 AD2d 1, 8 [1st Dept 2000] [internal quotations omitted].)

Sculptor has demonstrated good cause to redact NYSCEF 617, 738, 618, 737, 744, 756, 764, and 915 which contain nonparty financial information. Courts have recognized a compelling interest in sealing a third-party’s financial or private information as disclosure could imping upon the privacy rights of these nonparties. (See *Mancheski v Gabelli Group Capital Partners*, 39 AD3d 499, 502 [2d Dept 2007]; *Natixis Real Estate Capital Tr. 2007-HE2 v Natixis Real Estate Capital, Inc.*, 77 Misc 3d 1224 [A] [Sup Ct,

⁵ A publicly redacted copy is filed at NYSCEF 916.

NY County 2023].) Here, disclosure of Sculptor's financial information would impair its privacy rights and result in harm to its competitive advantage. Accordingly, these documents shall be redacted.

Accordingly, it is

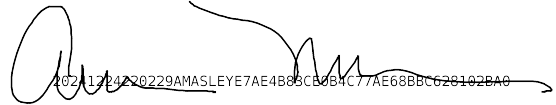
ORDERED that motion sequence 028 is granted, and the County Clerk, upon service of this order, shall seal NYSCEF 617, 738, 618, 737, 744, 756, 764, and 915; and it is further

ORDERED that movant 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 the 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 this 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 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 or other court proceedings on the record, e.g., arguments on motions.



12/24/2024
DATE

ANDREA MASLEY, 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"/>	DENIED	<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