

Michalowicz v EDP Renewables N. Am. LLC

2025 NY Slip Op 30254(U)

January 18, 2025

Supreme Court, New York County

Docket Number: Index No. 659615/2024

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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CANDICE MICHALOWICZ, RICHARD DOVERE, C2
 ELEKTRA HOLDINGS LLC, and EDPR NA DISTRIBUTED
 GENERATION LLC F/K/A C2 OMEGA LLC,

Plaintiffs,

- v -

EDP RENEWABLES NORTH AMERICA LLC, EDPR NA
 DG HOLDING LLC, GUSTAVO GOMES MONTEIRO,
 SANDHYA GANAPATHY, MEREDITH JAYNE BERGER
 CHAMBERS, PEDRO PIRES JOAO, and NUNO ESCAJA
 GONCALVES,

Defendants.

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INDEX NO. 659615/2024
MOTION DATE --
MOTION SEQ. NO. 001

**DECISION + ORDER ON
 MOTION**

HON. ANDREA MASLEY:

The following e-filed documents, listed by NYSCEF document number (Motion 001) 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37

were read on this motion to/for SEAL.

In motion sequence 001, defendants EDP Renewables North America LLC, EDPR NA DG Holding LLC, Sandhya Ganapathy, Meredith Jayne Berger Chambers, Pedro Pires João, and Nuno Escaja Gonçalves (moving defendants) move pursuant to the Uniform Rules of the New York State Trial Courts (22 NYCRR) § 216.1 to:

- (i) seal the complaint (NYSCEF Doc. No. [NYSCEF] 2, 13,¹ 35), and
- (ii) seal or redact affirmation of moving defendants' counsel Abigail E. Davis, Esq. (NYSCEF 11, 12), Membership Interest Purchase and Sale Agreement (NYSCEF 14, 15), C2 Omega LLC's operating agreement (NYSCEF 16, 17), Joint Confidentiality Agreement and Protective Order

¹ NYSCEF 13 is a placeholder. Parties shall refrain from using placeholders. (See Part 48 Procedures ¶ 2 [G].)

(NYSCEF 21, 22), and moving defendants' the brief in support of this motion to seal (NYSCEF 23, 24).

Plaintiffs Candice Michalowicz, Richard Doveve, and C2 Elektra Holdings, LLC oppose the motion and seek to redact the complaint instead. With the court's authorization, plaintiffs temporarily redacted their opposition brief because the brief quotes from the documents subject to this motion. (Plaintiffs' email to court dated January 13, 2025, at 3:35 p.m.; NYSCEF 30, counsel aff ¶ 14.)

For the reasons stated on the record on January 16, 2025, it is

ORDERED that that the motion to seal the complaint is denied. Plaintiffs' proposal to redact the complaint is acceptable to the extent discussed on the record; and it is further

ORDERED that the parties shall meet and confer to negotiate the redactions consistent with the court's instructions on the record. If no agreement can be reached within seven days of the date of this decision and order, the parties shall request a court conference; and it is further

ORDERED that if there is consent to one or all contested documents, plaintiffs shall file those documents in redacted form as agreed by the parties within 2 business days of their stipulation, which shall be filed in NYSCEF; and it is further

ORDERED that plaintiffs' opposition brief may be redacted to the extent it discloses the redacted portions of the documents that the court is permitting to redact herein. If redactions to the opposition brief shall be reduced to comply with this order, plaintiffs shall re-file their opposition brief publicly with updated redactions; and it is further

ORDERED that the County Clerk shall seal NYSCEF 2, 11, 12, 14, 15, 16, 17, 21, 22, 23, 24, 35, and 36. 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 the County Clerk shall unseal NYSCEF 13 (placeholder); and it is further

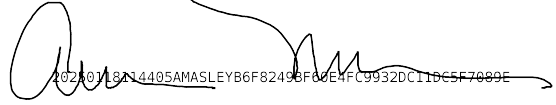
ORDERED that moving defendants shall review Part 48 Procedures, specifically, provisions on sealing. The chart included in Davis's affirmation does not comply with Part 48 Procedures, which require that documents be identified by name and described in a meaningful way – "Exhibit 1" is useless - (see Part 48 Procedures ¶ 10 [B]); and it is further

ORDERED that moving defendant shall 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 or any other court proceedings on the record, e.g., arguments on motions; and it is further

ORDERD that moving defendant shall submit the transcript to be so ordered.



1/18/2025

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