

Malekan v Malekan

2025 NY Slip Op 30566(U)

February 16, 2025

Supreme Court, New York County

Docket Number: Index No. 652507/2023

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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MICHAEL MALEKAN,

Plaintiff,

- v -

ALBERT MALEKAN, 466-26 SOHO LLC (NOMINAL
 DEFENDANT), 75-26 SOHO LLC (NOMINAL
 DEFENDANT), DAYAN 26-552, LLC (NOMINAL
 DEFENDANT) AND, ALBERTO MAKALI, LTD., and 466-
 26 DELAWARE LLC,

Defendants.

-----X

HON. ANDREA MASLEY:

The following e-filed documents, listed by NYSCEF document number (Motion 002) 79, 80, 81, 82, 83,
 85, 86

were read on this motion to/for

SEAL

In motion sequence 002, plaintiff Michael Malekan moves pursuant to the
 Uniform Rules of the New York State Trial Courts (22 NYCRR) § 216.1 to seal the
 following documents:

1. Dayan bank statements, 2023-2024 (NYSCEF Doc. No. [NYSCEF] 43)
2. Letters from Bethpage (NYSCEF 45)
3. Bethpage refinance agreement (NYSCEF 47)
4. 75 Soho general ledger (NYSCEF 48)
5. Dayan general ledger (NYSCEF 49)
6. 466 Soho general ledger (NYSCEF 50)
7. Dayan bank statements, 2021 (NYSCEF 53)
8. Dayan bank statements, 2020 (NYSCEF 54)
9. 2021 Dayan form K1 (NYSCEF 59)

10. Dayan 2021 tax returns (NYSCEF 60)
11. AMJ bank statement, 2019 (NYSCEF 61)
12. AM Ltd bank Statements, 2022 (NYSCEF 62)

The motion is supported by defendants. (NYSCEF 85, Michael Cassell, Esq.¹) 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].)

Malekan has demonstrated good cause to seal NYSCEF 43, 45, 47, 48, 49, 50, 53, 54, 56, 59, 60, 61, and 62 which contain private financial information. A party “ought not to be required to make their private financial information public ... where no substantial public interest would be furthered by public access to that information.”

¹ Cassell is defendants’ attorney. (NYSCEF 85, Michael Cassell, Esq.¶ 1.)
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(*D'Amour v Ohrenstein & Brown*, 17 Misc 3d 1130[A], 2007 NY Slip Op 55207[U], *20 [Sup Ct, NY County 2007] [citations omitted].) Here, plaintiffs assert that disclosure of the financial information would harm the family's businesses. (NYSCEF 82, Fern Mechlowitz² aff ¶3 [inner workings], ¶4 [nonpublic figures].) Thus, these documents will be sealed.

Accordingly, it is,

ORDERED that motion sequence 002 is granted, and the County Clerk, upon service of this order, shall seal NYSCEF 43, 45, 47, 48, 49, 50, 53, 54, 59, 60, 61, and 62; 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

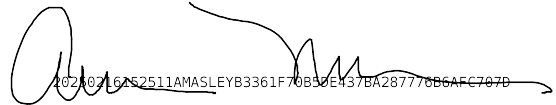
ORDERED the County Clerk shall restrict access to the sealed documents with access to be granted only to authorized court personnel and designees, the parties and counsel of record in this action, and any representative of a party or of counsel of record upon presentation to the County Clerk of written 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

² Plaintiff's attorney. (NYSCEF 82, Fern Mechlowitz ¶1.)
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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.



2/16/2025
DATE

ANDREA MASLEY, J.S.C.

CHECK ONE:

CASE DISPOSED

GRANTED

SETTLE ORDER

INCLUDES TRANSFER/REASSIGN

DENIED

NON-FINAL DISPOSITION

GRANTED IN PART

SUBMIT ORDER

FIDUCIARY APPOINTMENT

OTHER

REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: