

Medley Mgt., Inc. v Lowenstein Sandler, LLP

2025 NY Slip Op 30881(U)

March 17, 2025

Supreme Court, New York County

Docket Number: Index No. 651987/2022

Judge: Joel M. Cohen

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 03M

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MEDLEY MANAGEMENT, INC.,

INDEX NO. 651987/2022

Plaintiff,

MOTION DATE 12/22/2024

- v -

LOWENSTEIN SANDLER, LLP, ROBERT HIRSCH,
DAVID GORET

MOTION SEQ. NO. 005

Defendants.

**DECISION + ORDER ON
MOTION**

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HON. JOEL M. COHEN:

The following e-filed documents, listed by NYSCEF document number (Motion 005) 246, 248, 250, 252, 254, 256, 258, 260, 262, 264, 266, 268, 270, 272, 274, 276, 278, 280, 282, 284, 286, 288, 290, 292, 294, 296, 298, 306, 308, 310, 312, 314, 316, 318, 320, 322, 324, 326, 328, 330, 332, 334, 336, 338, 348, 350, 352, 354, 356, 358, 360, 362, 364, 366, 368, 375, 377, 379, 381, 383, 385, 387, 389, 391, 399, 401, 403, 405, 407, 409, 411, 413, 415, 417, 419, 421, 423, 425, 427, 429, 431, 433, 435, 437, 439, 441, 443, 445, 447, 449, 451, 453, 455, 457, 459, 461, 463, 465, 467, 469, 478, 480, 488, 489, 490, 491, 492, 493, 494, 495, 496

were read on this motion to SEAL

Defendants Lowenstein Sandler LLP, Robert Hirsh, and David Goret (collectively, “Defendants”) move for an order sealing and/or redacting portions of Defendants’ Exhibits 70-84, 86-96, 103-110, 112-119, 128-138, 144-148, 152, 159- 194, and 202-203 (NYSCEF Nos. 246, 248, 250, 252, 254, 256, 258, 260, 262, 264, 266, 268, 270, 272, 274, 276, 278, 280, 282, 284, 286, 288, 290, 292, 294, 296, 298, 306, 308, 310, 312, 314, 316, 318, 320, 322, 324, 326, 328, 330, 332, 334, 336, 338, 348, 350, 352, 354, 356, 358, 360, 362, 364, 366, 368, 375, 377, 379, 381, 383, 385, 387, 389, 391, 399, 401, 403, 405, 407, 409, 411, 413, 415, 417, 419, 421, 423, 425, 427, 429, 431, 433, 435, 437, 439, 441, 443, 445, 447, 449, 451, 453, 455, 457, 459, 461, 463, 465, 467, 469, 478, 480, and 488) filed in connection with their Motion for Summary

Judgment. No parties oppose this request. For the following reasons, Defendants' motion is granted.

Pursuant to § 216.1(a) of the Uniform Rules for Trial Courts, this Court may seal a filing “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” (22 NYCRR § 216.1[a]).

The Appellate Division has emphasized that “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]). “Since the right [of public access to court proceedings] is of constitutional dimension, any order denying access must be *narrowly tailored to serve compelling objectives*, such as a need for secrecy that outweighs the public’s right to access” (*Danco Labs., Ltd. v Chemical Works of Gedeon Richter, Ltd.*, 274 AD2d 1, 6 [1st Dept 2000] [emphasis added]; *see also, e.g. Gryphon Dom. VI, LLC v APP Intern. Fin. Co., B.V.*, 28 AD3d 322, 324 [1st Dept 2006]). “Furthermore, because confidentiality is the exception and not the rule, ‘the party seeking to seal court records has the burden to demonstrate compelling circumstances to justify restricting public access’” (*Maxim, Inc. v Feifer*, 145 AD3d 516, 517 [1st Dept 2016] [citations omitted]). Good cause must “rest on a sound basis or legitimate need to take judicial action” (*Danco Labs.*, 274 AD2d at 9). Agreements to seal are insufficient as such agreements do not establish “good cause” (*MBIA Ins. Corp. v Countrywide Home Loans, Inc.*, 2012 NY Slip Op 33147[U], * 9 [Sup Ct, NY County 2012]).

The Court has reviewed the submissions, and finds that consistent with this Court’s prior sealing order, in these unusual circumstances, Defendants have demonstrated good cause for the proposed redactions and sealing, as the documents contain sensitive information relating to

Defendants' former clients, who have not consented to the disclosure of such information (*see* NYSCEF 159, citing *Fusco v Tendy*, 41 Misc 3d 1225(A) [Sup Ct, Dutchess County 2013] [granting motion to seal communications with former counsel]; *see also Kassis v Teacher's Ins. and Annuity Ass'n*, 93 NY2d 611, 615 [1999] ["Attorneys owe a continuing duty to former clients not to reveal confidences learned in the course of their professional relationship"]).

Specifically, as to Defendants' Exhibits 135 (filed at NYSCEF 362, redacted version at NYSCEF 363), 144 (filed at NYSCEF 375, redacted version at NYSCEF 376), and 203 (filed at NYSCEF 480, redacted version at NYSCEF 481), Defendants have proposed targeted redactions that satisfy the requirements of 22 NYCRR § 216.1 (a). With respect to Defendants' Exhibits 70-84, 86-96, 103- 110, 112-134, 136-138, 145-148, 152, 159-194, and 202, Defendants submit (and the Court accepts) that the asserted protected information in these documents is so prevalent that targeted redactions are not practicable, warranting the filing of these documents fully under seal.

Finally, as to Defendants' Statement of Uncontested Facts (NYSCEF 487), the targeted redactions are appropriate as the redacted information describes and recites information from the foregoing materials (that does not also appear in publicly filed deposition transcripts or expert reports).

Accordingly, it is:

ORDERED that Defendants' Motion is **GRANTED**; it is further

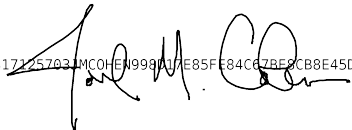
ORDERED that the County Clerk shall maintain NYSCEF Document Numbers 246, 248, 250, 252, 254, 256, 258, 260, 262, 264, 266, 268, 270, 272, 274, 276, 278, 280, 282, 284, 286, 288, 290, 292, 294, 296, 298, 306, 308, 310, 312, 314, 316, 318, 320, 322, 324, 326, 328, 330, 332, 334, 336, 338, 348, 350, 352, 354, 356, 358, 360, 362, 364, 366, 368, 375, 377, 379,

381, 383, 385, 387, 389, 391, 399, 401, 403, 405, 407, 409, 411, 413, 415, 417, 419, 421, 423, 425, 427, 429, 431, 433, 435, 437, 439, 441, 443, 445, 447, 449, 451, 453, 455, 457, 459, 461, 463, 465, 467, 469, 478, 480, and 488 under seal, so that the documents may only be accessible by the parties, their counsel, and authorized court personnel; it is further

ORDERED that Defendants shall serve a copy of this order upon the Clerk’s Office within five (5) days of the date of this Order, and such service 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); it is further

ORDERED as it related to future submissions, made by any party, that contain subject matter that the Court has authorized to be sealed by this Order, parties may file a joint stipulation, to be So Ordered, which will authorize the filing of such future submissions to be filed in redacted form on NYSCEF, provided that an unredacted copy of any redacted document is contemporaneously filed under seal; and it is further

ORDERED that nothing in this Order shall be construed as authorizing the sealing or redactions of any documents or evidence to be offered at trial.

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JOEL M. COHEN, J.S.C.

3/17/2025
DATE

CHECK ONE:

<input type="checkbox"/>	CASE DISPOSED	<input type="checkbox"/>	DENIED
<input checked="" type="checkbox"/>	GRANTED		
<input type="checkbox"/>	SETTLE ORDER		
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	

<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION	<input type="checkbox"/>	OTHER
<input type="checkbox"/>	GRANTED IN PART		
<input type="checkbox"/>	SUBMIT ORDER		
<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/>	REFERENCE