

**CPPIB Credit Invs. II Inc. v Lions Gate
Entertainment Corp.**

2025 NY Slip Op 30900(U)

March 19, 2025

Supreme Court, New York County

Docket Number: Index No. 654398/2024

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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CPPIB CREDIT INVESTMENTS II INC., CPPIB CREDIT INVESTMENTS III INC., THEBES OFFSHORE MASTER FUND, LP,

Plaintiffs,

- v -

LIONS GATE ENTERTAINMENT CORPORATION, LIONS GATE CAPITAL HOLDINGS LLC, DEUTSCHE BANK TRUST COMPANY AMERICAS, EAGLE EQUITY PARTNERS V, LLC, JOHN DOE, AIC INVESTMENT HOLDINGS LLC - SERIES II, AMERIGROUP MARYLAND, INC., BALDR BAYES FUND INC., BGF GLOBAL HIGH YIELD BOND FUND, BLACKROCK CAPITAL ALLOCATION TERM TRUST, BLACKROCK CORE BOND TRUST, BLACKROCK CORPORATE HIGH YIELD FUND, INC., BLACKROCK CREDIT ALLOCATION INCOME TRUST, BLACKROCK CREDIT STRATEGIES FUND, BLACKROCK DEBT STRATEGIES FUND, INC., BLACKROCK DYNAMIC HIGH INCOME PORTFOLIO OF BLACKROCK FUNDS II, BLACKROCK ESG CAPITAL ALLOCATION TERM TRUST, BLACKROCK EVENT DRIVEN EQUITY FUND OF BLACKROCK LARGE CAP SERIES FUNDS, INC., BLACKROCK GLOBAL ALLOCATION FUND, INC., BLACKROCK GLOBAL ALLOCATION PORTFOLIO OF BLACKROCK SERIES FUND, INC., BLACKROCK GLOBAL ALLOCATION V.I. FUND OF BLACKROCK VARIABLE SERIES FUNDS, INC., BLACKROCK GLOBAL EVENT PARTNERS MASTER LTD, BLACKROCK GLOBAL FUNDS - DYNAMIC HIGH INCOME FUND, BLACKROCK GLOBAL FUNDS - ESG GLOBAL CONSERVATIVE INCOME FUND, BLACKROCK GLOBAL FUNDS - FIXED INCOME GLOBAL OPPORTUNITIES FUND, BLACKROCK GLOBAL FUNDS - GLOBAL MULTI-ASSET INCOME FUND, BLACKROCK GLOBAL FUNDS - SUSTAINABLE FIXED INCOME GLOBAL OPPORTUNITIES FUND, BLACKROCK GLOBAL FUNDS - US DOLLAR HIGH YIELD BOND FUND, BLACKROCK GLOBAL FUNDS - US DOLLAR SHORT DURATION BOND FUND, BLACKROCK GLOBAL FUNDS GLOBAL ALLOCATION FUND, BLACKROCK GLOBAL FUNDS SYSTEMATIC ESG MULTI ALLOCATION CREDIT FUND HIGH YIELD, BLACKROCK GLOBAL FUNDS-ESG GLOBAL MULTI-ASSET INCOME FUND, BLACKROCK GLOBAL HIGH YIELD SUSTAINABLE CREDIT SCREENED FUND, BLACKROCK GLOBAL INVESTMENT SERIES - INCOME STRATEGIES

INDEX NO. 654398/2024
MOTION DATE 12/13/2024
MOTION SEQ. NO. 002

DECISION + ORDER ON MOTION

PORTFOLIO, BLACKROCK GLOBAL LONG/SHORT CREDIT FUND OF BLACKROCK FUNDS IV, BLACKROCK HIGH YIELD BOND PORTFOLIO OF BLACKROCK FUNDS V, BLACKROCK HIGH YIELD PORTFOLIO OF BLACKROCK SERIES FUND II, INC.,BLACKROCK HIGH YIELD V.I. FUND OF BLACKROCK VARIABLE SERIES FUNDS II, INC.,BLACKROCK INCOME FUND OF BLACKROCK FUNDS V, BLACKROCK INSTITUTIONAL TRUST COMPANY, NA, BLACKROCK INSTITUTIONAL TRUST COMPANY, NA, BLACKROCK INSTITUTIONAL TRUST COMPANY, NA, BLACKROCK INSTITUTIONAL TRUST COMPANY, NA, BLACKROCK INSTITUTIONAL TRUST COMPANY, NA, BLACKROCK INSTITUTIONAL TRUST COMPANY, NA, BLACKROCK INSTITUTIONAL TRUST COMPANY, NA, BLACKROCK INSTITUTIONAL TRUST COMPANY, NA, BLACKROCK INSTITUTIONAL TRUST COMPANY, NA, BLACKROCK INSTITUTIONAL TRUST COMPANY, NA, BLACKROCK INVESTMENT MANAGEMENT (AUSTRALIA) LIMITED AS RESPONSIBLE ENTITY OF THE BLACKROCK GLOBAL ALLOCATION FUND (AUST), BLACKROCK LIMITED DURATION INCOME TRUST, BLACKROCK LOW DURATION BOND PORTFOLIO OF BLACKROCK FUNDS V, BLACKROCK MANAGED INCOME FUND OF BLACKROCK FUNDS II, BLACKROCK MULTI-ASSET INCOME PORTFOLIO OF BLACKROCK FUNDS II, BLACKROCK MULTI-SECTOR INCOME TRUST, BLACKROCK MULTI-STRATEGY CREDIT MASTER FUND LTD., BLACKROCK SPECIALIST STRATEGIES FUNDS - BLACKROCK MULTI-STRATEGY CREDIT FUND, BLACKROCK STRATEGIC FUNDS - BLACKROCK GLOBAL EVENT DRIVEN FUND, BLACKROCK STRATEGIC INCOME OPPORTUNITIES PORTFOLIO OF BLACKROCK FUNDS V, BLACKROCK SUSTAINABLE HIGH YIELD BOND FUND OF BLACKROCK FUNDS V, BLACKROCK SUSTAINABLE LOW DURATION BOND FUND OF BLACKROCK FUNDS V, BLACKROCK SYSTEMATIC MULTI ALLOCATION CREDIT FUND HIGH YIELD, BLACKROCK SYSTEMATIC MULTI-STRATEGY ALPHA MASTER FUND LTD., BLACKROCK SYSTEMATIC MULTI-STRATEGY FUND OF BLACKROCK FUNDS IV, BRIGHTHOUSE FUNDS TRUST I - BLACKROCK HIGH YIELD PORTFOLIO, CALIFORNIA PUBLIC EMPLOYEES RETIREMENT SYSTEM, CALIFORNIA STATE TEACHERS' RETIREMENT SYSTEM, CANADA FIXED INCOME GLOBAL OPPORTUNITIES FUND, CIVIL AVIATION AUTHORITY PENSION SCHEME, DANICA PENSION, LIVSFORSIKRINGSAKTIESELSKAB, EMBO-FONDS, EMPIRE HEALTH CHOICE ASSURANCE INC.,EMPLOYEES' RETIREMENT FUND OF THE CITY

OF DALLAS, ENHANCED PASSIVE GLOBAL HIGH YIELD BOND PORTFOLIO, ENTE NAZIONALE DI PREVIDENZA ED ASSISTENZA DEI MEDICI E DEGLI ODONTOIATRI, FONDITALIA - BOND GLOBAL HIGH YIELD FUND, GLOBAL ATLANTIC INVESTMENT ADVISORS LLC., IMCO GLOBAL CREDIT LP, ISHARES, ISHARES CORE 5-10 YEAR USD BOND ETF, ISHARES CORE TOTAL USD BOND MARKET ETF, ISHARES ESG ADVANCED HIGH YIELD CORPORATE BOND ETF, ISHARES ESG ADVANCED TOTAL USD BOND MARKET ETF, ISHARES I BONDS 2029 TERM HIGH YIELD AND INCOME ETF, ISHARES II PUBLIC LIMITED COMPANY, ISHARES ILL PLC, ISHARES U.S. FIXED INCOME BALANCED RISK FACTOR ETF, JNL/BLACKROCK GLOBAL ALLOCATION FUND, KAPITALFORENINGEN PENSAM, LVIP BLACKROCK GLOBAL ALLOCATION FUND, METROPOLITAN LIFE INSURANCE COMPANY, ON BEHALF OF ITS SEPARATE ACCOUNT NO. 479, MORNINGSTAR ALTERNATIVES FUND A SERIES OF MORNINGSTAR FUNDS TRUST, MULTI-MANAGER HIGH YIELD OPPORTUNITY FUND, NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION, PENSIONS KASSE STADT ZURICH, PPL SERVICES CORPORATION MASTER TRUST, RENAISSANCE INVESTMENT HOLDINGS LTD., SIX CIRCLES CREDIT OPPORTUNITIES FUND, SOMERS RE LTD., STICHTING BEDRIJFSTAKPENSIOENFONDS VOOR DE DETAILHANDEL, STICHTING DELA DEPOSITARY & MANAGEMENT, STICHTING PENSIOENFONDS MEDISCH SPECIALISTEN, STICHTING PENSIOENFONDS ZORG EN WELZIJN, SYSTEMATIC TOTAL ALPHA, THE NAVY EXCHANGE SERVICE COMMAND RETIREMENT TRUST, THE NEW ZEALAND GUARDIAN TRUST COMPANY LIMITED AS TRUSTEE FOR AMP WHOLESALE HIGH YIELD BOND FUND, TWO DEGREE LLC, UBS FUND MANAGEMENT (SWITZERLAND) AG ON BEHALF OF KYBURG INSTITUTIONAL FUND - OBLIGATIONEN FREMDWAHRUNGEN, US HIGH YIELD PASSIVE PORTFOLIO, VELLIV, PENSION & LIVSFORSIKRING A/S, DIAMETER CREDIT FUNDING I, LTD., DIAMETER CREDIT FUNDING II, LTD., DIAMETER CREDIT FUNDING III, LTD., DIAMETER CREDIT FUNDING LV, LTD., DIAMETER DISLOCATION MASTER FUND II LP, DIAMETER MASTER FUND LP, LIBERTY 77 FUND INTERNATIONAL L.P., LIBERTY 77 FUND L.P., ALLIANZ GLOBAL INVESTORS FUND, ALLIANZ GLOBAL INVESTORS INCOME AND GROWTH FUND, ALLIANZ INCOME AND GROWTH, ALLIANZ US HIGH YIELD, COMMISSIONERS OF THE LAND OFFICE, CONTRA COSTA COUNTY EMPLOYEES RETIREMENT ASSOCIATION, VIRTUS CONVERTIBLE & INCOME FUND, VIRTUS CONVERTIBLE & INCOME FUND II, VIRTUS DIVERSIFIED INCOME & CONVERTIBLE FUND,

VIRTUS INCOME & GROWTH FUND,
Defendants.

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HON. JOEL M. COHEN:

The following e-filed documents, listed by NYSCEF document number (Motion 002) 48, 49, 50, 51, 52 were read on this motion to SEAL.

Defendants Lions Gate Entertainment Corp. and Lions Gate Capital Holdings LLC (together, “Lions Gate”) moves for an order sealing and/or redacting certain portions of NYSCEF 45 filed in connection with this action. No parties oppose this motion. For the following reasons, Lions Gate’s 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]).

Here, pursuant to the Stipulation and Order Governing Further Amendment of Plaintiff Thebes Offshore Master Fund, LP’s Complaint and Briefing Schedule for Defendants’ Motion to Dismiss, entered by the Court on December 9, 2024 (NYSCEF 43), “the parties agreed that Lions Gate would produce the signature pages of represented Noteholder Parties by December 2, 2024. With respect to unrepresented Noteholder Parties, Lions Gate agreed to send notice to the unrepresented parties by December 5, 2024, advising such parties that it would produce their signature pages by December 11, 2024 unless such parties objected in writing by December 10, 2024, and that Lions Gate would promptly submit any such objection to the Court for resolution” (NYSCEF 49 at 2).

In connection with the present motion, Lions Gate submits that it received a written objection from one exchange participant to the disclosure of its signature page to the Exchange Agreement (*see* NYSCEF 45), an issue as to which Lions Gate states it takes no position (NYSCEF 49 at 2). As far as the Court is aware, Lions Gate has not submitted this Objecting Participant’s objection to the Court for resolution.¹ Nevertheless, Lions Gate seeks to seal

¹ The Court does not view Lions Gate’s submission of the Objecting Participant’s letter (NYSCEF 45) as sufficient to present the issue for the Court’s review. The letter simply states an objection without providing grounds therefor. If Lions Gate and/or the Objecting Participant has nothing more to add to warrant withholding the signature page from discovery in this action (or redaction), this conclusory objection will be overruled.

NYSCEF 45 “to preserve the [Objecting Participant’s] claim of confidentiality until the Court is able to rule on the merits of the objection, as disclosure would inherently defeat the confidentiality objection” (NYSCEF 49 at 2).

With the expectation that Lions Gate will present the Objecting Participant’s confidentiality claim in a separate motion (if it has not done so already), setting forth with specificity the grounds for resisting disclosure of its signature page and/or for sealing, the Court will provisionally seal NYSCEF 45. As Lions Gate argues, declining to seal the objection itself would render moot any subsequent contention that the signature page itself should either not be produced or be sealed. Thus, for now, Lions Gate’s motion to file NYSCEF 45 in redacted form is granted.

Accordingly, it is:

ORDERED that Lions Gate’s Motion to Seal and/or Redact is **GRANTED**; it is further

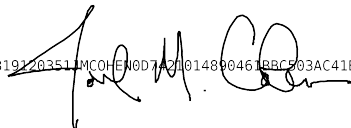
ORDERED that the County Clerk shall maintain NYSCEF Document Numbers 45 under seal, so that the documents may only be accessible by the parties, their counsel, and authorized court personnel; it is further

ORDERED that Lions Gate shall file a public, redacted version of NYSCEF 45 within five (5) days of the date of this Order; 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 Lions Gate 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)]; 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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3/19/2025
DATE

JOEL M. COHEN, 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