

111 W. 57th Inv. LLC v 111 W57 Mezz Inv. LLC

2025 NY Slip Op 31828(U)

May 15, 2025

Supreme Court, New York County

Docket Number: Index No. 655031/2017

Judge: Joel M. Cohen

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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 03M

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111 WEST 57TH INVESTMENT LLC, ON BEHALF OF
ITSELF AND DERIVATIVELY ON BEHALF OF 111 WEST
57TH PARTNERS LLC AND 111 WEST 57TH MEZZ 1
LLC,

Plaintiffs,

- v -

111 W57 MEZZ INVESTOR LLC, SPRUCE CAPITAL
PARTNERS LLC, JOSHUA CRANE, ROBERT
SCHWARTZ, ATLANTIC 57 LLC, 57 MADISON
LLC, ARTHUR BECKER, JOHN DOE ENTITY, ACREFI
MORTGAGE LENDING, LLC, APOLLO CREDIT
OPPORTUNITY FUND III AIV I LP, AGRE DEBT 1 - 111 W
57, LLC, APOLLO COMMERCIAL REAL ESTATE
FINANCE, INC., APOLLO GLOBAL MANAGEMENT,
INC., AMERICAN GENERAL LIFE INSURANCE
COMPANY, VARIABLE ANNUITY LIFE INSURANCE
COMPANY, NATIONAL UNION FIRE INSURANCE
COMPANY OF PITTSBURGH, PA, AIG PROPERTY
CASUALTY COMPANY, THE UNITED STATES LIFE
INSURANCE COMPANY IN THE CITY OF NEW YORK,
AIG ASSET MANAGEMENT (U.S.), LLC, 111 WEST 57TH
PARTNERS LLC, 111 WEST 57TH MEZZ 1 LLC, MICHAEL
STERN, KEVIN MALONEY, 111 WEST 57TH SPONSOR
LLC, 111 WEST 57TH CONTROL LLC, 111 WEST 57TH
MANAGER LLC,

Defendants.

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HON. JOEL M. COHEN:

The following e-filed documents, listed by NYSCEF document number (Motion 016) 587, 588, 589, 590,
591, 592, 593, 594, 595, 596, 598, 599

were read on this motion to

SEAL

Defendants move for an order sealing and/or redacting certain portions of Exhibit 40, 42,
47, 48 (NYSCEF 557, 559, 566, and 567) to the February 14, 2025, Affirmation of Craig M.
Flanders and Exhibit W (NYSCEF 498) to the February 14, 2025, Affirmation of Daniel R.
Milstein filed in connection with the parties' summary judgment motions. No parties oppose this

motion. For the following reasons, Defendants' motion is **denied without prejudice to refile consistent with this Court's instructions herein.**

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]).

The Court has reviewed Exhibit 40, 42, 47, 48, and W (NYSCEF 498, 557, 559, 566, and 567), which are excerpts from JV 111W57 LLC, dated May 7, 2018; Madison deal term sheet, dated March 5, 2018; May 7, 2018 email attaching Madison transaction documents; Draft JV 111W57 LLC agreement; Draft JV 111W57 LLC agreement, dated September 2017, and finds that Defendants have not demonstrated a sufficient basis for sealing these documents. The fact that the parties have stipulated to sealing documents, or that they have designated the documents

during discovery as “Confidential” or “Highly Confidential,” does not, by itself, require granting of the motion” (*see, e.g., Maxim*, 145 AD3d at 518; *Gryphon*, 28 AD3d at 324). While portions of these documents may include sensitive commercial information, Defendants have not demonstrated that any such concern cannot be adequately protected through targeted redactions. In view of the admonition that sealing of court records must be “narrowly tailored to serve compelling objectives,” (*Danco*, 274 AD2d at 6), Defendants will need to propose and justify targeted redactions that satisfy the requirements of 22 NYCRR § 216 (a) and applicable case law. NYSCEF 498, 557, 559, 566, and 567 will remain provisionally under seal to permit the prompt filing of a follow-up motion proposing and explaining the need for specific redactions.

Finally, the Court notes that two other documents were filed under seal, but no parties have moved to seal these documents: NYSCEF 510, 516. However, Plaintiffs have filed several requests for temporary restricted status of these documents since they were filed in February 2025 (NYSCEF 572, 586, 600, 602, 603, 604, 607, 616,622). A motion must be made within seven (7) days of the date of this Order to cover these documents, or they will be unsealed. Plaintiffs should be advised that the Court will not grant full sealing of memorandum of law or Rule 19-a Statements, and any proposed redactions must be narrowly tailored.

Accordingly, it is:

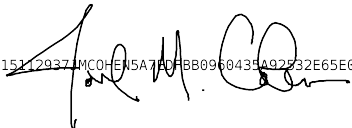
ORDERED that Defendants’ Motion is **denied without prejudice**; it is further

ORDERED that the documents filed as NYSCEF 498, 557, 559, 566, and 567, 591, 592, 593, 594, and 595 **shall remain provisionally sealed** for 21 days from the date of the Court’s entry of this Decision and Order on NYSCEF. If the parties file a new motion to seal or redact confidential portions of the documents consistent with this Decision and Order within that 21-day period, the documents shall remain provisionally sealed pending resolution of that motion.

If no such motion is filed within 21 days from the entry of this Decision and Order, the parties shall within three business days thereafter file unredacted/unsealed copies of the documents on NYSCEF; 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 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.

5/15/2025
DATE

CHECK ONE:

CASE DISPOSED
GRANTED DENIED
SETTLE ORDER
INCLUDES TRANSFER/REASSIGN

NON-FINAL DISPOSITION
GRANTED IN PART
SUBMIT ORDER
FIDUCIARY APPOINTMENT

OTHER
REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: