

Fortress Credit Corp. v Cohen

2025 NY Slip Op 33128(U)

August 19, 2025

Supreme Court, New York County

Docket Number: Index No. 651498/2024

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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FORTRESS CREDIT CORP.

INDEX NO. 651498/2024

Plaintiff,

MOTION DATE 04/23/2025

- v -

CHARLES S. COHEN,

MOTION SEQ. NO. 007

Defendant.

**DECISION + ORDER ON
MOTION**

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HON. JOEL M. COHEN:

The following e-filed documents, listed by NYSCEF document number (Motion 007) 253, 254, 255, 256, 257, 258, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 285, 286, 287, 288, 298, 331, 332

were read on this motion to SEAL.

Defendant moves for an order sealing and/or redacting portions of certain documents filed in this action as NYSCEF Document Numbers 206, 218, 219, 221, 223, 225, 227, 229, 231, 233, 235, 237, 239, 241, 242, 243, 244, 246, 248. Plaintiff opposes this request. For the set forth below, Defendant’s motion is granted in part.

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). 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).

The Court has reviewed the documents and finds the sealing of NYSCEF Document Numbers 223, 225, 227, 229, 231, 233, 235, 237, 239, 241, 242, and 243 is warranted as they are Defendant’s personal financial statements (*Dawson v White & Case*, 184 AD2d 246, 247 [1st Dept 1992] [granting sealing where defendant's partners had a legitimate interest in keeping their financial arrangements private]; *D'Amour v Ohrenstein & Brown, LLP*, 17 Misc 3d 1130(A) [Sup Ct, NY County 2007] [“Sealing a court file may be appropriate to preserve the confidentiality of materials which involve the internal finances of a party and are of minimal public interest.”]). Additionally, sealing of the amendment of Defendant’s prenuptial agreement, filed as NYSCEF Document Number 248, is granted as it contains private information of a nonparty and is of minimal public interest (*see Chen Dongwu v New York City Regional Ctr. LLC*, 85 Misc 3d 1202(A), 224 NYS3d 917 [Sup Ct 2025]).

However, Defendant's broad and categorical assertions of good cause do not establish a compelling justification to seal NYSCEF Document Numbers 206, 218, 219, 221, 244, and 246. While *portions* of certain documents may include confidential business and financial information of Defendant or private information of nonparties, the record on this motion does not establish that is the case. In view of the admonition that sealing of court records must be "narrowly tailored to serve compelling objectives," (*Danco*, 274 AD2d at 6), Defendant will need to propose and justify targeted redactions that satisfy the requirements of 22 NYCRR § 216 (a) and applicable case law. The documents will remain provisionally under seal to permit the prompt filing of a follow-up motion proposing and explaining the need for specific redactions.

Any subsequent motion seeking to address the above concerns should adhere to this Part's Sealing Practices and Procedures (*see* <https://www.nycourts.gov/LegacyPDFS/courts/comdiv/NY/PDFs/part3-sealing-practices.pdf>), including the requirement to submit an affidavit based on personal knowledge attesting to the factual bases for redaction and a spreadsheet setting forth a non-conclusory good faith basis for each proposed redaction.

Accordingly, it is:

ORDERED that Defendant's motion is **GRANTED IN PART**; it is further

ORDERED that the County Clerk shall maintain NYSCEF Document Numbers 223, 225, 227, 229, 231, 233, 235, 237, 239, 241, 242, and 243 under seal, so that the documents may only be accessible by the parties, their counsel, and authorized court personnel; it is further

ORDERED that the documents filed as NYSCEF 206, 218, 219, 221, 244, and 246 shall remain provisionally sealed for 14 days from the date of the Court's entry of this Decision

