

**Fortress Credit Corp. v Cohen**

2025 NY Slip Op 33318(U)

September 3, 2025

Supreme Court, New York County

Docket Number: Index No. 651498/2024

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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FORTRESS CREDIT CORP.	<b>INDEX NO.</b>	<u>651498/2024</u>
Plaintiff,	<b>MOTION DATE</b>	<u>05/20/2025</u>
- v -	<b>MOTION SEQ. NO.</b>	<u>009</u>
CHARLES S. COHEN,	<b>DECISION + ORDER ON MOTION</b>	
Defendant.		

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HON. JOEL M. COHEN:

The following e-filed documents, listed by NYSCEF document number (Motion 009) 338, 339, 340, 341, 342, 344, 345, 346, 348

were read on this motion to

SEAL

**Defendant** moves for an order sealing and/or redacting portions of **certain documents** filed in connection with **this action**. Plaintiff opposes this request except as to NYSCEF Document Number 310. For the following reasons, **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). 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 documents and finds that the documents filed as NYSCEF Document Numbers 302, 307, 310, and 326 comport with the applicable sealing standards as laid out in *Mosallem*, 76 AD3d at 348-50, and its progeny, in that they contain confidential business and financial information. Additionally, sealing of the documents filed as NYSCEF Document Numbers 304, 309, 313, 315, and 321 is warranted as they contain personal financial information, including of nonparties (*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.”]; *Cwcapital Cobalt VR Ltd. v Cwcapital Investments LLC*, 2024 N.Y. Slip Op. 33996[U], 16 [N.Y. Sup Ct, New York County 2024] [“Courts have recognized a compelling interest in sealing a third-party's financial or private information as disclosure could imping upon the privacy rights of these nonparties.”]).

However, Defendant’s broad and categorical assertions of good cause do not establish a compelling justification to seal NYSCEF Document Numbers 299, 317, 319, 323, 329, 333, and

336. 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 303, 305, 308, 311, 314, 316, 322, and 327 in their current, redacted form; it is further

**ORDERED** that the County Clerk shall maintain NYSCEF Document Numbers 302, 304, 307, 309, 310, 313, 315, 321, 326 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 299, 317, 319, 323, 329, 333, and 336 shall remain provisionally sealed for 14 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

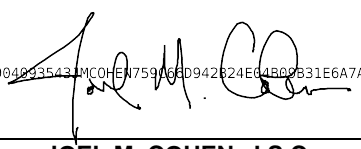
the documents consistent with this Decision and Order within that 14-day period, the documents shall remain provisionally sealed pending resolution of that motion. If no such motion is filed within 14 days from the entry of this Decision and Order, the parties shall within three business days thereafter file unredacted/unsealed copies of the documents on NYSCEF; it is further

**ORDERED** that Defendant 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.

This constitutes the decision and order of the Court.

<p><u>9/3/2025</u> DATE</p>	 <small>202509042335431MCOHEN7591630942624E64B02B31E6A7A28C25</small> <hr/> <b>JOEL M. COHEN, J.S.C.</b>																																
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